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2d Session

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# A LEGISLATIVE HISTORY OF THE WATER QUALITY ACT OF 1987 (PUBLIC LAW 100-4) INCLUDING PUBLIC LAW 97-440; PUBLIC LAW 97-117; PUBLIC LAW 96-483; AND PUBLIC LAW 96-148

TOGETHER WITH

## A SECTION-BY-SECTION INDEX

PREPARED BY THE

ENVIRONMENT AND NATURAL RESOURCES POLICY DIVISION

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# CHAPTER V

## PUBLIC LAW 97-440

TEXT OF FEDERAL WATER POLLUTION CONTROL ACT AMENDMENT (*PUBLIC LAW 97-440*); HOUSE DEBATE AND PASSAGE OF H.R. 7159, DECEMBER 1982; SENATE DEBATE AND PASSAGE OF H.R. 7159, DECEMBER 1982; SENATE COMMITTEE REPORT ON H.R. 7159 (*SENATE REPORT NO. 97-686*); HOUSE DEBATE AND PASSAGE OF H.R. 7159, SEPTEMBER 1982; HOUSE COMMITTEE REPORT ON H.R. 7159 (*HOUSE REPORT NO. 97-868*); H.R. 7159, AS REPORTED.

**Note:** This 1982 legislation authorized the Environmental Protection Agency to allow modification of certain industrial effluent limitation requirements. The amendment originated as House legislation, H.R. 7159, approved and reported by the Public Works and Transportation Committee September 23, 1982. The House considered and passed the bill September 29. In the Senate, the Environment and Public Works Committee approved and reported the bill with an amendment December 16. The Senate approved the bill, amended, on December 19. On December 20 the House concurred in the Senate amendment to H.R. 7159. President Reagan approved the bill January 8, 1983.

## Public Law 97-440
## 97th Congress

# An Act

**To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH.**

Jan. 8, 1983
[H.R. 7159]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

Federal Water Pollution Control Act, amendment.
33 USC 1311.
33 USC 1342.
33 USC 1343.

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

"(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

"(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

33 USC 1251.

"(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not less than $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

"(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this Act applicable to similarly situated discharges; and

"(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the

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applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additional period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.".

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 7159:

HOUSE REPORT No. 97-868 (Comm. on Public Works and Transportation).
SENATE REPORT No. 97-686 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 128 (1982):
- Sept. 29, considered and passed House.
- Dec. 19, considered and passed Senate, amended.
- Dec. 20, House concurred in Senate amendment.

○

# HOUSE DEBATE ON H.R. 7159

*December 20, 1982*
(Congressional Record, vol. 128, daily ed., H10456-H10459)

## FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

Mr. ROE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7159), to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after line 5, over to and including line 5 on page 4, and insert:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

"(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

"(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

"(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not less than $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

"(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent of the relaxation of the requirements of this Act applicable to similarly situated discharges; and

"(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additonal period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.".

Mr. ROE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, I rise in support of H.R. 7159. This legislation—in its original form passed by the House and in its amended version from the Senate—provides an environmentally preferred means of dealing with a clean water situation in northern California.

The ranking Republican member of the Committee on Public works and Transportation, DON CLAUSEN, deserves full recognition for his efforts in bringing this matter to the attention of the Members of the committee and the Congress. The local community, including environmental interests, remain strongly supportive of this action.

The legislation permits discharge of

nontoxic materials by two mills into the ocean as had been approved by the State of California prior to that decision being overturned by the Environmental Protection Agency.

As was noted when this bill first passed the House, discharge to the ocean has not caused nor will cause harm because of the ocean characteristics. In fact, failure to allow these discharges will lead to environmental problems because of the need to dispose of large quantities of sludge, related air pollution problems, and others. In addition, the expenditure of large sums of money on unnecessary facilities by the companies will certainly be economically harmful in this time of economic recovery.

The bill as it passed the House was environmentally sound and economically reasonable. The Senate amendments merely "fine tuned" the provisions. For instance, one of the Senate amendments—No. 9—provides that competitors with facilities comparable to the applicant have the opportunity to demonstrate that they would be put at a competitive disadvantage. The Senate report properly notes that the burden for such a showing is on the competitor. If no competitors come forward, this provides the evidence that there is no competitive disadvantage created.

Again, Mr. Speaker, H.R. 7159 provides for appropriate action in this particular case and is in keeping with the goals of the Clean Water Act and will provide the best overall environmental results. I support this legislation and urge my colleagues to support it as well.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. Roe), the distinguished chairman of the subcommittee, for further explanation.

Mr. ROE. I thank the gentleman for yielding.

Mr. Speaker, H.R. 7159 amends the Federal Water Pollution Control Act to give the Environmental Protection Agency the authority to modify the permit requirements for two pulp mills in California currently discharging into the Pacific Ocean. The situation facing these two mills is unique and the legislation is drafted very narrowly so that it applies only to the circumstances in this particular case and does not establish a precedent for similarly situated discharges.

Under existing law, industries are required to achieve effluent limitations that require the application of the best practicable technology by July 1, 1977. The effluent limitations applicable in this case, pertaining to the pulp and paper industry, were finalized by EPA in 1976. The State of California, which had authority to administer the act's permit program, proposed to issue permits to the two pulp mills involved in this case that included variances from the effluent limitations set by EPA for discharge of biochemical oxygen demand and acidity. The State concluded that the discharge would not result in a discernible impact on the marine environment. EPA vetoed the permits and this veto was later upheld by the courts.

H.R. 7159, as passed by the House, authorizes EPA to modify the requirements for best practicable and best conventional treatment technology with very strict limitations. The applicants must show that they have established a monitoring system; the modified requirements will not require any additional treatment by other sources; there will be no new or substantially increased discharges from the applicant's facilities; and the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which will allow for fishable and swimmable wate after the discharge.

The Senate amendments add further detail to the restrictions on the granting of a modification by EPA contained in the House-passed bill. These include:

First, the pulp mills must agree to spend at least $250,000 per year for 10 years for research and development on water pollution control technology;

Second, EPA finds that this is a unique situation which will not establish a precedent; and

Third, EPA finds that no owner or operator of a comparable facility in the United States has demonstrated that it would be put at a competitive disadvantage as a result of the granting of an effluent modification to the California mills.

Mr. Speaker, this legislation does not establish a precedent for similarly situated discharges. The bill, as passed by the House, was very narrowly drawn to insure that it would apply only to the two pulp mills in question. The Senate added two provisions designed to assomplish the same purpose. The permit numbers of the two mills are specifically mentioned, and the fact that it is not to set a precedent is stated in the legislative language. This bill is not to be interpreted as an indication that our committee intends to abandon the concept of technology-based standards. It represents, rather, a necessary solution to a very limited problem arising from a very unique situation.

Mr. Speaker, I urge enactment of this bill.

□ 1315

We have analyzed this amendment clearly and we have no objection to the Senate amendments.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from

California (Mr. CLAUSEN), a sponsor of the bill.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I want to thank the distinguished chairman, the gentleman from New Jersey, and the gentleman from Arkansas and all the members of the committee for cooperating with us in bringing about what I think will be a refined version of what passed the House unanimously.

Mr. Speaker, I am pleased to rise in strong support of H.R. 7159, a bill which in its original version I authored and which, in the amended form that we have under consideration today, preserves our House intent to provide a workable and attainable mechanism for the two mills covered by the bill to receive the effluent limitation modifications they seek.

When, some 2½ months ago, we in this body voted overwhelmingly—without a single voice being raised in opposition—to pass this bill, we voted to establish a reasonable and balanced procedure by which two California pulpmills in a unique situation could be granted relief from the need to install additional pollution control facilities that are unnecessary for both environmental and other reasons. The amendments added to H.R. 7159 by our Senate counterparts do nothing to upset the fundamental principles of reasonableness and balance that are the basic premises around which the bill has been developed and that are intended to be guiding with respect to implementation of this legislation.

Three of the eleven changes that were made to the bill in the Senate were designed to assure that decisions made under authority of H.R. 7159 were subject to the usual standards of judicial review. It was never my intent as author of the bill that such decisions would not be subject to judicial review, and I consider these three amendments to more specifically state what has always been our position on this matter.

Thus, the new requirements in paragraphs 301(m)(1) and 301(m)(3) calling for a finding by the Administrator and deletion in paragraph 301(m)(2) of the phrase "in the view of the Administrator" are not at all inconsistent with what has always been the intent of this bill.

Most of the other amendments adopted by the Senate similarly either make more explicit what has always been my intent with respect to this bill or add to the bill language that refines and particularizes my original intent.

For example, the pulpmills are described now in subparagraph 301(m)(1)(A) by permit number rather than in more general terms. In addition, statutory language has been added as subparagraph 301(m)(1)(H) with respect to the uniqueness of the pulpmill situation and the fact that H.R. 7159 is not intended to be a precedent with respect to similarly situated discharges. These amendments state in different statutory language what the original bill's subparagraph 301(m)(1)(A) was intended to address. These two mills and their situation with respect to their permits are entirely unique.

No precedent is created or intended to be created. The committee has already conducted a review of similarly situated dischargers who may wish to attempt improperly to avail themselves of this amendment and has determined that this is a unique situation and will not establish a precedent for the relaxation of the requirements of the Clean Water Act applicable to such dischargers. As Chairman Roe described when we passed H.R. 7159 in September: "The bill has been drafted very narrowly so that it applies only to the circumstances in this case."

And as I stated on the floor at the same time:

> H.R. 7159 is in no way intended, nor should it be viewed, as a precedent for future general policy with respect to the act generally. The bill addresses what we believe is a totally unique situation, and it is meant to be and do nothing more.

The Senate adopted another amendment deleting the words "to the extent practicable" from the bill's subparagraph 301(m)(1)(C). This amendment has been described as one designed to clarify that the monitoring requirement imposed by that subparagraph cannot be avoided, waived, or diminished. With that understanding of the amendment, I strongly support it. It was never my intent that the bill's monitoring requirements be capable of being avoided, waived, or diminished. I have always intended, however, that all of the bill's requirements be bounded by the concept of reasonableness, and nothing about the Senate's amendment changes this underlying premise of the bill and its requirements.

Our Senate counterparts refined my original intent somewhat in paragraph 301(m)(4) by adding to the House-passed language a proviso whereby, if the effluent from one or both of the pulp mills is contributing to a decline in the ambient water quality of the receiving waters, the Administrator must terminate the contributing mill's permit. In making the degradation determination that leads to nondiscretionary termination of either mill's permit, the Administrator shall assess whether the conditions of paragraph 2 of this subsection are being violated. The primary gauge of whether this nondiscretionary responsibility must be carried out should revolve around considerations of whether and to what extent applicable State water quality standards are being maintained.

Two of the Senate's amendments Fine Tune H.R. 7159's language to more closely track the particular facts concerning these mills and their unique circumstances. Replacement of the word "economic" with the word "energy" in subparagraph 301(m)(1)(B) recognizes that the State of California, in deciding in 1977 to approve the mills' requests for permit modifications, concluded that the modifications were justified after thoroughly evaluating the energy and environmental effects of requiring additional pollution control facilities at the two mills. Second, the Senate's addition of a new subparagraph 301(m)(1)(I) reflects the fact that no known significant competitive advantage or disadvantage, with respect to the Clean Water Act's effect and operation within the United States, will result from enactment of H.R. 7159.

In paragraph 301(m)(3), a change has been made to my original language to limit to 10 years the total length of time that the permit modifications authorized in this subsection may remain in force under authority of H.R. 7159.

The final Senate amendment, adding a new subparagraph 301(m)(1)(G), is the most significant of the amendments made to the bill by the other body. In principle and effect, this new provision requires that the two mills commit a portion of the economic gain realized as a result of this legislation to research and development of water pollution control technology that could lead to the reduction or complete elimination of wastewater discharges from these mills as well as others. I heartily endorse this concept. I believe that this new subparagaph greatly enhances the already exremely strong case for granting the mills the permit relief they seek.

And I believe that, if ever there was a doubt in anyone's mind that the environment—both locally and nationally—will be better off as a result of H.R. 7159's becoming law, this provision should lay those doubts to rest. The house members understand that the money to be spent by the companies would be used for research, development, and installation of experimental equipment designed to achieve the progress toward attainment of closed cycle technology or other water pollution control technology at these and other facilities.

Mr. Speaker, before we pass this important bill, I would like to express my heartfelt thanks to a number of colleagues and their staff, without whose assistance and support this legislation would not have been possible. The gentlemen from New Jersey, the chairman of our full public works committee and its water resources subcommittee, have been truly outstanding in terms of their cooperation and bipartisanship. The gentleman from Arkansas. The banking minority member of our Water Resources Subcommittee, has been of inestimable assistance on this legislation as he has throughout the entire tenure of our Congressional relationship. And on the Senate side, thanks must also go to Senators STAFFORD, CHAFEE, ABDNOR, RANDOLPH, BENTSEN, and their colleagues on the Environment and Public Works Committee for recognizing how important the need for this legislation is and for being willing to make it a high priority matter in these final hours of the 97th Congress.

Finally, Mr. Speaker, very special thanks must go to Senator GORTON and his exceptional staff counsel, Marianne McGettigan, who toiled long and hard to enable this bill to become law.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Mr. Speaker, under my reservation, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I understood the gentleman from New Jersey to say there is $250,000 a year in this for several years.

What I am wondering is how we are spending that kind of money with no budgetary impact.

Mr. CLAUSEN. Mr. Speaker, if the gentleman will yield further, there is no budgetary impact. It is simply a requirement on the part of the affected pulp mills that they themselves will have to pay that minimal amount. It is not Federal money.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, I understand then that the budgetary impact of this bill is nonexistent, that this will have no impact on the budget whatsoever.

Mr. CLAUSEN. The gentleman is correct, as I assured him before.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from New Jersey (Mr. ROE)?

There was no objection.

A motion to reconsider was laid on the table.

# SENATE DEBATE ON H.R. 7159

*December 19, 1982*

(Congressional Record, vol. 128, daily ed., S15576-S15578)

## MODIFICATIONS TO LIMITATIONS RELATING TO BIOCHEMICAL OXYGEN DEMAND AND PH

**Mr. BAKER.** Mr. President, next I would propose to proceed to the consideration of Calendar Order 1020, H.R. 7159, if the minority leader finds that agreeable.

**Mr. ROBERT C. BYRD.** I have no objection.

The Senate proceeded to consider the bill (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, which had been reported from the Committee on Environment and Public Works with an amendment:

On page 1, strike line 6, through and including line 9 on page 4, and insert the following:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 402, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

"(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

"(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

"(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not to exceed $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

"(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this Act applicable to similarly situated discharges; and

"(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for five additional periods not to exceed five years each upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.".

**The PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1571

**Mr. BAKER.** Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Washington (Mr. Gorton) and the distinguished Senator from Ohio (Mr. Metzenbaum).

**The PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker), for Mr. Gorton and Mr. Metzenbaum, proposes an unprinted amendment numbered 1571.

**Mr. BAKER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 20 strike "to exceed" and insert "less than" and on page 6, line 25 and page 6, line 1 strike "five additional periods not to exceed five years each" and insert "one additional period not to exceed five years."

**Mr. GORTON.** Mr. President, I would like to express my support for H.R. 7159, the Clausen bill. This bill is designed to provide a procedure, pursuant to which, the Administrator of the Environmental Protection Agency may grant a variance from the best practicable and best conventional treatment technology requirements of the Clean Water Act for two pulp mills located on the Samoa Peninsula, near Eureka in Humboldt County, Calif.

These mills are in a unique situation. They currently discharge their effluent into deep Pacific Ocean waters in an area with strong currents and turbulent into deep Pacific Ocean waters in an area with strong currents and turbulent conditions through separate outfalls about a half-mile long. Those familiar with the area believe that these conditions make it possible to discharge into these waters without any resulting decline in water quality. I understand the concern of some of my colleagues that we not depart from the underlying principle of the Clean Water Act; that of requiring technology without regard to the quality of the receiving water. That principle has proven to be most effective in our effort to clean up the Nation's waters. I do not believe, however, that this bill, in its narrowly drawn form, will constitute a precedent for departing from that principle.

In this case, the treatment facilities which would be required to be constructed without this amendment to the act would cause considerable adverse impact on a sensitive plant and wildlife habitat and cause a degradation of air quality. Because of this, this bill has the support of the environmental community of the north coast of California. Mr. President, I ask that a letter in support of H.R. 7159 from the Northcoast Environmental Center be reprinted in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORTON. Mr. President, H.R. 7159 was amended by the Senate Environment and Public Works Committee in order to leave no doubt of its limited application and the fact that it is not to be considered as precedent for other mills or industries. I would like to thank the distinguished chairman of the committee, Senator STAFFORD, for his cooperation in crafting those amendments.

Finally, I would like to note that a part of any permit that might be issued under the provisions of this bill would be a commitment by the applicant to use up to $250,000 per year for period of 10 years for research and development into water pollution control processes. This is certainly a fair requirement to make of these mills and if it results in the development of a closed-cycle system for mills such as these, the benefit of the bill will be felt well beyond the local area of these mills.

EXHIBIT 1

THE NORTHCOAST
ENVIRONMENTAL CENTER,
*Arcata, Calif., December 3, 1982.*

Re H.R. 7159.

GENTLEPERSONS: This letter is to indicate our support for H.R. 7159 which would prevent the creation of a larger environmental problem to solve one of less magnitude. The language of this measure represents a delicate balance and a local consensus amongst environmental and industrial interests on the north coast of California.

We would appreciate your support for this measure in its original form.

The Northcoast Environmental Center is a nonprofit educational organization established in 1971. Through our member organizations and through individual memberships the Center represents almost 4,000 people in the sparsely populated region of northwestern California.

The Center's member groups include Redwood Region Audubon Society, Six Rivers Branch—Friends of the Earth, the North Group of the Redwood Chapter of the Sierra Club, the North Coast Chapter of the California Native Plant Society, the North Coast Chapter of Friends of the River, the Redwood Alliance, the Arcata Community Recycling Center, the Humboldt Herbicide Task Force and the Hoopa Valley Business Council.

Thank you for your time and consideration in this matter.

Sincerely yours,

TIM MCKAY,
*Coordinator.*

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1571) was agreed to.

The **PRESIDING OFFICER.** If there be no further amendment, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Calendar No. 1020**

97TH CONGRESS } SENATE { REPORT
*2d Session* } { No. 97-686

# AMENDING THE FEDERAL WATER POLLUTION CONTROL ACT

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DECEMBER 16 (legislative day, NOVEMBER 30), 1982.—Ordered to be printed

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Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

## REPORT

together with

## MINORITY VIEWS

[To accompany H.R. 7159]

The Committee on Environment and Public Works, to which was referred the act (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH having considered the same, reports favorably thereon with an amendment and recommends that the act (as amended) do pass.

### GENERAL STATEMENT

H.R. 7159, as amended, creates a new section 301(m) of the Clean Water Act to allow the Administrator of the Environmental Protection Agency the authority of approving National Pollutant Discharge Elimination System permits for two point sources which may fall below the national minimum performance standards. These two point sources belong to the bleached kraft pulp mill subcategory and are located on the Samoa Peninsula, near Eureka in Humboldt County, California. This limited authority, to allow the Administrator to modify effluent limits for the discharge of conventional pollutants from the two mills upon findings that receiving water quality is not and will not be adversely affected, is discretionary.

As described below, the amendments adopted by the Committee clarify the intent of the House-passed legislation that not only does a finding have to be made regarding the relationship of the discharge to receiving water quality, and a new determination has to be made by the Administrator each time the National Pollutant Discharge Elimination System permit comes up for renewal, but also that the issued permits may be revoked at any time if the pollutant limits established in the permit lead to lesser water quality, or if the owner-operators fail to fund research and development of other processes which would lead to the elimination of the discharge of pollutants.

A key component of the Clean Water Act is the mandatory requirement that all point sources within a particular industrial subcategory must install uniform effluent treatment technology regardless of the receiving water into which the discharge occurs. No deviation has occurred from the long held belief that this is the only regulatory scheme that will achieve the goal of clean water.

In this instance, however, the need to create a new section 301(m) was determined after it was firmly established that the point sources described above, and by the Committee amendments, are truly unique. For instance, in 1977 the Water Resources Control Board of California issued National Pollutant Discharge Elimination System permits to the mills which took into account that both discharges were into the marine environment, and in the issuance process concluded that:

> Based on the record before us, we (the Board) must conclude that there do not appear to be any environmental benefits which will be derived by requiring these dischargers to meet . . . (the) guideline limitations for BOB or pH.

This decision was later reversed by the Administrator of the Environmental Protection Agency on the grounds that receiving water quality is not allowed under the law to be considered in the issuance of a National Pollutant Discharge Elimination System permit. This is a correct interpretation of the law. Since that time the owner-operators have exhausted all administrative and legal avenues in an attempt to reverse the Administrator's decision.

Members of the Committee expressed concern over the possibility that this amendment might establish a precedent. Of particular concern are two paragraphs in a letter written to the chief House sponsor of H.R. 7159 by Ann M. Gorsuch, Administrator of the Environmental Protection Agency dated September 27, 1982. In part that letter states that:

> The situation of the two mills in your State clearly reflects a continuing national problem: the strict application of the Clean Water Act can, and does, result in treatment for treatment's sake. The technology-based approach embodied in the Act requires that all similar wastewater dischargers provide the same level of treatment even though there may be no adverse environmental consequences caused by a particular effluent. The fact that citizen groups, environmentalists, business representatives, and the State of California, itself, support a common solution for these mills, underscores the growing recognition that this is indeed a problem that needs to be dealt with on a national level.
>
> This Administration has gone on record opposing treatment for treatment's sake. It serves no useful purpose, in

> many cases it can be extremely expensive, and it is misleading in terms of environmental progress being achieved. Because we are committed to the concept of avoiding needless treatment, we support your amendment.

Historically the Senate Environment and Public Works Committee and the Congress as a whole have rejected the argument that application of the Clean Water Act results in treatment for treatment's sake. The significant deterioration of the Nation's waters during the decades of unprecedented economic growth in the post World War II period has been reserved only by the imposition of uniform technological requirements on point sources of pollution. The Committee continues to reject the argument that the Clean Water Act requires pollution control beyond that necessary to protect our waters. The Act's objective is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. That objective depends on a control strategy which minimizes discharges of pollutants from all sources regardless of where situated.

It is the intention of the Committee that this action not constitute a precedent. The amendments adopted by the Committee are intended to clarify the bill as non-precedential and limited to the unique circumstance of the two mills, and to codify the commitments made by the owner-operators of both mills. H.R. 7159 will not be viewed as a precedent nor as a basis for the Environment and Public Works Committee to review the circumstances of other individual point sources seeking a modification of the Clean Water Act or for any general mechanism allowing modification of the uniform treatment requirements of the Act on the basis of effect on receiving water quality.

It is also important to note that H.R. 7159 provides the Administrator the discretion to consider modifications of these two National Pollutant Discharge Elimination System permits. The Administrator should thoroughly review each application made by the dischargers before granting these modifications. Guidance for the Administrator in establishing the procedures for considering permit modifications may be found in section 301(h) and section 316(a) of that Act. Both provisions of the Act establish positive and thorough showings before the National Pollutant Discharge Elimination System permit modification sought is granted. It is anticipated that the showing required to be made by new section 301(m) will be at least as rigorous.

## EXPLANATION OF AMENDMENTS

The reported bill, as amended, would contain the following provisions:

A new subsection (m) is added to section 301 of the Clean Water Act. The subsection authorizes the Administrator of the Environmental Protection Agency to issue a permit which modifies certain requirements of the law with respect to discharges of biological oxygen demand and pH by an industrial discharger into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds the following:

First, the facility for which the modification is sought must be covered at the time of enactment by National Pollutant Discharge

Elimination System permit number CA0005894 or CA0005282. The effect of this requirement is to restrict the relief granted by this bill to only the two facilities in question.

Second, the energy and environmental costs of meeting the law's current requirements must exceed by an unreasonable amount the benefits to be obtained. As passed by the House of Representatives, this subparagraph allowed "economic" costs to be taken into account. The Committee substituted "energy" for "economic" to assure that the balance struck was between competing environmental concerns, including those associated with increased energy demands.

Third, an applicant must establish a system for monitoring the impact of its discharges on a representative sample of aquatic biota. As passed by the House of Representatives, this requirement applied only "to the extent practicable." The Committee struck this language to make it clear that the requirement imposed by this subparagraph is not one which can be avoided, waived, or diminished.

Fourth, the modified requirements cannot result in any additional requirements on any other point or non-point source.

Fifth, there may not be any new or substantially increased discharges from the point source of the pollutant to which the modification applies above the volume of discharge specified in the initial permit.

Sixth, the discharge must be into waters where there is strong tidal movement as well as other hydrological and geological characteristics. These must be sufficient not only to assure achievement of the requirements of this subsection, but of section 101(a)(2) of the Clean Water Act, which states:

> (2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.

Seventh, the applicant must accept as a condition to the permit a contractual obligation to use up to $250,000 per year for each of ten years for research and demonstration of water pollution control technology. This research and development must include closed-cycle technology which does not discharge pollutants. This requirement was not included in the bill passed by the House of Representatives. It was added to assure that at such time as the unique authority of this bill expires, some investment had been made in the development of pollution-free technology. Closed-cycle technology has been demonstrated for kraft pulp mills. This will aid in the adaptation of such approaches to existing mills. The obligation to develop and demonstrate such technology is that of the industries who create their potential risk to the environment, not the general public.

Eighth, the facts and circumstances must present a unique situation which, if relief is granted, will not establish a precedent for the relaxation of the requirements of the Clean Water Act applicable to similarly situated discharges. This requirement was not included in the bill passed by the House of Representatives. The Committee added this subparagraph to make it clear that other dischargers cannot use this bill as a basis for similar relief for themselves, either individually or generically. A similarly situated discharge is one from an industrial discharger located on a body of water the quality of which is alleged not to be diminished by its effluent.

Ninth, no owner or operator of a facility comparable to that of the applicant situated in the United States can have demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection. This requirement was not included in the bill passed by the House of Representatives. It was added by the Committee to assure that the Clean Water Act remains competitively neutral. The burden of establishing an adverse competitive effect is on the competitor.

These conditions must be met and are subject to a finding by the Administrator. The bill passed by the House of Representatives required a level of formality by the Administrator less than a finding. The Committee amendments increase the burden on the Administrator and the applicants to assure the opportunity for full and complete public disclosure and judicial review.

Once the conditions are satisfied and the findings are arrived at, a permit may be issued. The term of the permit may not exceed five years. Five subsequent permits may also be issued, for terms not to exceed five years each. Each of the permits must be preceded by the compilation of a record and the affirmative finding of the Administrator as to the satisfaction of all requirements of this subsection.

The bill passed by the House of Representatives did not make the requirement for full reconsideration of the facts at each permit renewal as explicit as the Committee believed necessary. Nor did that bill provide for eventual termination of the relief. The Committee limited the duration of the Administrator's authority to make it clear that even in this unique situation a discharger will not be granted the privilege to pollute in perpetuity.

After issuing a permit, the Administrator may nonetheless terminate it if there has been a decline in the quality of the receiving waters. To exercise the discretionary authority to terminate, the Administrator need not make a showing or determine that there is a cause and effect relationship between the decline and the discharge of the permit holder. It is only necessary that the decline have occurred.

Further, if there is any decline in water quality to which the effluent from a source with a permit under this provision contributes, the Administrator must terminate the permit. This is a non-discretionary duty. The bill passed by the House of Representatives did not require the permits to be terminated upon such a showing, nor did it authorize a court to make such a determination.

## ROLLCALL VOTES

Section 7(c) of rule XXVI of the Standing Rules of the Senate requires publication of any rollcall votes. The bill was ordered reported by a vote of 12 to 2, with Senators Abdnor, Baker, Baucus, Bentsen, Chafee, Domenici, Gorton, Moynihan, Murkowski, Randolph, Simpson, and Symms voting in the affirmative and Senators Mitchell and Stafford voting negative.

### EVALUATION OF REGULATORY IMPACTS

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of regulatory impact of the reported bill.

The bill does not change the number or groups or classes of individuals or businesses presently subject to regulation under the Clean Water Act.

No significant net increase in paperwork is anticipated as a result of the Committee bill.

### COST OF LEGISLATION

Paragraph 11(a) of rule XXVI of the Standing Rules of the Senate requires cost estimates and comparisons of costs to be incurred in carrying out the bill to be published in reports. In accordance with section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared a report on the costs to be incurred by the Federal Government resulting from the enactment of this bill. Such cost estimates follow:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., December 15, 1982.*

Hon. ROBERT T. STAFFORD,
*Chairman, Committee on Environment and Public Works,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 7159, a bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, as ordered reported by the Senate Committee on Environment and Public Works, December 14, 1982.

Based on this review, it is expected that no significant additional costs to states or the federal government would be incurred as a result of enactment of this bill.

On September 23, 1982, CBO prepared a cost estimate for the House companion version of this bill. No additional cost to the government was estimated to result from that bill.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

# MINORITY VIEWS OF MESSRS. STAFFORD AND MITCHELL

While we appreciate and agree with the attempts to assure that this unique situation does not become the basis for an attack on the technology-based standards of the Clean Water Act, we cannot agree with this bill. If relief for the two pulp and paper mills in question is appropriate, it need not take the form found in this bill. What other type of relief is appropriate we cannot say, because there were no Senate hearings on this proposal nor is any Member of either the Committee or its staff personally familiar with the facts. This legislation is based upon assertions made by interested parties, not upon a finding of the facts and circumstances.

We also disagree that there is a need to act this late in the Congress. Each of these mills is on a court-ordered schedule of compliance which leaves ample time for consideration of this case during the next Congress when the Clean Water Act will undergo comprehensive review. The facilities are receiving preferential treatment not only in terms of the substance of this bill, but in terms of its timing as well. We cannot agree with either proposition.

Robert T. Stafford.
George J. Mitchell.

## CHANGES IN EXISTING LAW

Section 12 of Rule XXVI of the Standing Rules of the Senate requires publication of any changes in existing law made by the reported bill. In the opinion of the Committee, it is necessary to dispense with this requirement in order to expedite the business of the Senate.

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# HOUSE DEBATE ON H.R. 7159

*September 29, 1982*
(Congressional Record, vol. 128, daily ed., H7856-H7858)

## FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, as amended.

The Clerk read as follows:

H.R. 7159

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates to the satisfaction of the Administrator that—

"(A) on or before March 17, 1977, the State had received authority from the Administrator to administer its own permit program under section 402(b) and the applicant had received approval from the appropriate agency of such State for the modifications requested in the permit applied for under this subsection;

"(B) the economic and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota, to the extent practicable;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit; and

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall, in the view of the Administrator, be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for additional periods not to exceed five years each upon a demonstration by the applicant to the satisfaction of the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. ROE) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I yield myself what time I may consume.

(Mr. ROE asked and was given permission to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, H.R. 7159 amends the Federal Water Pollution Control Act to give the Environmental Protection Agency the authority to modify the permit requirements for two pulp mills currently discharging into the Pacific Ocean. The situation facing these two mills is unique, and the bill has been drafted very narrowly so that it applies only to the circumstances in this particular case.

Under the current statutory requirements, industries were required to achieve effluent limitations that require the application of the best practicable control technology currently available by July 1, 1977. These effluent limitations were to be defined by the Administrator of the Environmental Protection Agency. The criteria to be considered by the Administrator in setting effluent limitations are set forth in section 304(b) of the act, and include the total cost of application of the technology in relation to the effluent reduction benefits to be achieved and nonwater quality environmental impacts, among others.

The effluent limitations applicable in this case, pertaining to the pulp and paper industry, were finalized by EPA in 1976. The State of California, which was the first to receive authority to administer the act's permit program in 1973, proposed to issue permits to the two mills involved in this case that included variances from the effluent limitations set by EPA for discharge of biochemical oxygen demand and acidity. In doing so, the State concluded, among other thing, that the discharge would not result in a discernible impact or threat of damage to the marine environment. The permits were vetoed by the Environmental Protection Agency on the grounds that the variances were based on local water quality considerations rather than on a finding that the nonwater quality environmental effects of adherence to the limitations were fundamentally different from those considered by EPA in publishing effluent limitations for the industry as a whole. This veto was upheld in the courts.

The provision in the bill authorizing EPA to grant variances under certain strict conditions for the two pulp mills involved is in no way intended to alter the existing statutory scheme for regulation of industrial discharges. It is not to be construed as a change in overall committee policy nor as setting a precedent. It in no way changes the committee's commitment to the basic approach of uniform national technology based standards for industrial discharges. The bill is intended to resolve a unique and extreme situation.

Mr. Speaker, in addition to being very narrowly drawn, the bill imposes a very strict test which must be satisfied before the variance can be granted by EPA. Meeting this test will insure that there are no adverse water quality impacts associated with the modified discharge requirements.

The test requires the applicants to show to the satisfaction of the Administrator that:

First, they have established a system for monitoring the impacts of its discharges on a representative sample of aquatic biota, to the extent practicable;

Second, the modified requirements will not result in any additional requirements on any other point or nonpoint source;

Third, there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit; and

Fourth, the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which will allow for fishable and swimmable water after the discharge.

Finally, the bill specifies that the modification may be granted only if the Administrator is satisfied that it will comply with State water quality standards and assure the protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife and other aquatic organisms, and to allow recreational activities in and on the water.

Mr. Speaker, I urge passage of the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I am most pleased to support H.R. 7159. This legislation provides an environmentally preferred means of dealing with a clean water situation in northern California.

The ranking Republican member of the Committee on Public Works and Transportation, Mr. CLAUSEN, deserves full recognition for his efforts in bringing this matter to the attention of the members of the committee and the Congress. His ability to obtain swift action on this legislation is further evidence of his outstanding leadership and commitment to the best environmental and economic solutions to the Nation's challenges.

The legislation permits discharge of nontoxic materials by two mills into the ocean as had been approved by the State of California prior to that decision being overturned by the Environmental Protection Agency.

Due to the ocean characteristics in the area, discharge to the ocean has not and should not cause any harm. In fact, failure to allow these discharges will lead to environmental problems because of the need to dispose of large quantities of sludge, related air pollution problems, and others. Evidence of the benefits of this legislation is shown by the support of the proposal by local environmental interests in northern California. In addition, the expenditure of large sums of money on unnecessary facilities by the companies will certainly be economically harmful in this time of economic recovery.

It has been made entirely clear that this legislation only applies to the specific cases cited and is in no way a precedent for other situations.

Again, Mr. Speaker, H.R. 7159 provides for appropriate action in this particular case and is in keeping with the goals of the Clean Water Act and will provide the vest overall environmental results. I support this legislation and urge my colleagues to support it as well.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

(Mr. CLAUSEN asked and was given

permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I rise in strong support of H.R. 7159 and urge its passage here today. This bill is greatly needed to address a very serious and unique west coast problem which, if it is not rectified soon, could result in grave economic and environmental consequences for the area involved.

In connection with our Water Resources Subcommittee's July hearings on the Clean Water Act, the subcommittee received a detailed statement on the nature of the problems being addressed in this bill. Therefore, in the interests of time, I will only attempt to summarize the situation here today.

Two nearly identical pulp mills are located 1 mile apart on a spit of land between the Pacific Ocean and Humboldt Bay, just west of the northern California town of Eureka. Both mills discharge their effluent into deep Pacific Ocean waters in an area of strong currents and turbulent conditions through separate outfalls about a half-mile long.

For more than 8 years, the mills have been seeking administrative relief from the need to install unnecessary additional waste treatment facilities. In 1977, the State of California's Water Quality Control Board, following similar action by the State's North Coast Regional Water Quality Control Board, granted the very limited relief being sought by the mills. In so doing the State board concluded, among other things, that—

> In summary, it has been clearly shown, in this particular case, that neither the discharge of BOD nor pH (for which modifications were being sought) results in a discernible impact or a threat of damage to the marine development.

The board further determined that—

> Based on the record before us, we must conclude that there do not appear to be any environmental benefits which will be derived by requiring these dischargers to meet . . . the . . . guideline limitations for BOD or pH.

Unfortunately, even though California had been delegated NPDES program management responsibilities, EPA reversed the State's decision on the grounds that California had no statutory authority to issue water quality based permit modifications for dischargers such as these. That EPA decision was subsequently upheld in the courts.

Mr. Speaker, I believe it is important at this point to call to my colleagues' attention a number of important facts related to some of the agency and judicial decisions that created the need for this legislation. Taken together, I believe that they illustrate quite well the kind of problem these two mills have been facing for more than 6 years.

They also illustrate that the mills' inability to receive a variance justified by serious and unique adverse nonwater quality environmental consequences should clearly be viewed as an unintended result.

In reaching its decision to approve the mills' variance applications, the California Water Quality Control Board noted that the dischargers presented extensive evidence both before the regional board and before the State board that there are no adverse environmental effects associated with the mills' discharges. The board noted testimony given by the executive director of the regional board "that he knew of no evidence that indicates that, in the case of these two discharges, BOD is a problem." It also likewise noted with respect to pH that "there is no evidence in the record to dispute the dischargers' allegation that the high or low pH of their discharges causes no problem when diffused into seawater." Under these circumstances, the State board reasoned that—

> In this case we have unrefuted evidence presented by the dischargers and concurred with by the regional board executive officer that the existing discharges result in no water quality problems. Second, there is no expected or predictable water quality improvement to be achieved as the result of imposition of the EPA guidelines.
>
> In light of these facts (the magnitude of the chemical and energy requirements, and the potential air and land management problems associated with sludge disposal) we can only conclude the evidence justifies the variance requested.

In appraising the evidence related to the nonwater quality environmental effects and energy requirements partly "in terms of the potential environmental benefits to be gained as a result of the imposition of the EPA guidelines," the State board subjected its variance-granting decision to EPA challenge on the grounds that a lack of effect on receiving water quality is not a legally permissible justification for granting a variance under the Clean Water Act and its implementing regulations.

EPA's consideration of the State board's decision was limited to the narrow legal question of whether water quality considerations are valid grounds for variances from effluent limitations based upon best practicable technology. The administrator concluded that—

> Where the State board erred was in finding grounds for variances on the basis of nonwater quality environmental impacts . . . (because) the board found these impacts to be the basis for variances when weighed against, or considered in light of, the lack of environmental improvement.

The Administrator also clearly stated, however, that he was not "finding that the State could not, had it properly interpreted the act, have found fundamental difference with regard to nonwater quality environmental inpact." His statement was unequivocal:

> I have not independently reviewed the factual record. I therefore express no opinion as to whether the two mills could be found fundamentally different in terms solely of nonwater quality environmental impact. This is a matter properly addressed in the first instance by the State.

Mr. Speaker, the matter is further complicated by procedural questions related to the adequacy of the record used by EPA to reach its decision, the refusal of EPA to grant the companies a hearing, and other matters. Suffice it to say that, by the time the pulp mills had exhausted their appellate rights with respect to the very narrow legal question at issue, the possibility of receiving administrative relief for the pulp mills' situation had become sufficiently clouded to warrant pursuing a legislative solution.

The mills, therefore, are faced with the following problems. Installation of the additional treatment facilities could cost as much as $15 million each in capital and another $1 to $2 million in additional annual operations and maintennance costs.

The costs of compliance, however, are not just dollar costs; as alluded to earlier, they also include significant environmental costs related to odor and other air pollution effects, difficulties with State coastal conservation efforts, and extremely difficult sludge disposal problems.

In light of this situation, a coalition of industry, environmental, consumer, local government and citizen groups has been working together for almost a year to attempt to assist the mills in finding the relief they seek. Support has come from the Redwood Chapter of the Sierra Club, the Northcoast Environmental Center—a coalition of 12 environmental organizations—the Arcata and Eureka Chambers of Commerce, and numerous other local organizations and citizens. Resolutions have been adopted by the Humboldt County Board of Supervisors, the Humboldt Bay municipal water districts, and the Eureka City Council urging relief for the mills. The strong preference of most of the members of the coalition, and my strong preference, would have been to find an administrative solution to the problem. Unfortunately, however, for reasons already alluded to, it does not appear that such an approach is feasible.

Therefore, in order for the mills to receive the relief they seek, a legislative solution is necessary and that is what is being proposed in H.R. 7159.

This bill has been crafted very carefully to limit its application to the very specialized kind of problem and unique set of circumstances I have described to you. It has been drafted in a narrow, strict, and environmentally responsible fashion and is modeled after the Clean Water Act's section 301(h) with, in my opinion, additional safeguards to assure that the area's resources and the waters receiving the effluent are adequately protected.

H.R. 7159 allows the administrator to modify NPDES permit requirements for an industrial discharger:

First, only with the concurrence of the State;

Second, only with respect to BOD and pH;

Third, only for discharges into deep waters;

Fourth, only for discharges into the territorial seas;

Fifth, only if approval had been received by a delegated State prior to March 17, 1977;

Sixth, only if a number of strict environmental tests are met;

Seventh, for no more than 5 years at a time; and

Eighth, with provision to terminate the modification if warranted by a deterioration in water quality.

Mr. Speaker, particular care has been taken to narrow the scope of this bill to deal with a very specialized problem and a very unique type of circumstances. It is in no way intended to be broadened to include other kinds or variations or problems, and any attempts to so broaden it will be resisted.

Furthermore, H.R. 7159 is in no way intended, nor should it be viewed, as a precedent for future general policy with respect to the act generally. The bill addresses what we believe is a totally unique situation, and it is meant to be and do nothing more.

The technical amendment that accompanies the bill is just that—purely technical. It is designed to avoid any interpretation of the bill's paragraph (A) which would enable a discharger to qualify for the relief this provision provides on the theory that the State concerned had a permit program equivalent to the Federal section 402 program on or before March 17, 1977. In order to do this we have added language to make it clear that, like California, the State concerned must have actually received authority under 402(b) from the Federal Environmental Protection Agency by that date.

Mr. Speaker, I am hopeful and confident that the need for H.R. 7159 is apparent and that the solution contained in the bill is appropriate. A great deal of effort has been expended to develop the consensus that exists in support of this bill, with compromises having to be made by all of the competing interests involved in order to find an approach that strikes the proper balance. I know of no opposition to the bill and am personally thankful to all who have played a part in expediting its consideration. It is necessary legislation and it should be passed here today.

● Mr. HOWARD. Mr. Speaker, I rise in support of the bill.

As my colleagues have stated, this is a narrowly drawn bill designed to address a special problem. The current statute already contains a mechanism for adjusting the effluent limitations applicable to a particular plant when its circumstances are fundamentally different from the plants which the Environmental Protection Agency looked at in determining the requirements for the industry as a whole. This was the rationale under which the State of California proposed to modify the effluent limitations for the bleached Kraft pulp mill subcategory for two mills discharging into the Pacific Ocean off the Humboldt Bay in California. However, the Environmental Protection Agency did not agree with California's decision, and vetoed the discharge permits issued by the State.

Those who are familiar with the act will recognize that the test contained in the bill to qualify for the modified discharge requirements is similar to the very strict test applicable to municipalities under section 301(h). This is designed to insure that the pulp mills addressed by the bill will be granted the modification only if they can meet strict environmental requirements. The similarity to 301(h) does not mean that the committee is contemplating extending the ocean discharge waiver which is now available to municipalities beyond its current scope. Indeed, the committee will be looking into the need to narrow the 301(h) provision. I wish to reiterate my own strong support, and the committee's support, for the current industrial regulatory provisions of the Federal Water Pollution Control Act, which are based on uniform technology based effluent limitations which are uniform within any particular industrial category or subcategory. It is also appropriate to point out that the support for modified requirements in this unique instance has been forthcoming from virtually every party which has become familiar with the facts.

Mr. Speaker, I urge passage of the bill.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. ROE) that the House suspend the rules and pass the bill, H.R. 7159, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

97TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 97-868

# FEDERAL WATER POLLUTION CONTROL ACT—MODIFICATION OF CERTAIN EFFLUENT LIMITATIONS

SEPTEMBER 23, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

# REPORT

[To accompany H.R. 7159]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

## INTRODUCTION

H.R. 7159 authorizes the Administrator of the Environmental Protection Agency to modify the requirements for best practicable and best conventional treatment technology, in very limited circumstances, in order to address a problem which has arisen with regard to two pulp mills in the State of California.

The mills are located on the California coast west of the northern California town of Eureka. They discharge their effluent into deep Pacific Ocean waters in an area of strong currents and turbulent conditions through separate outfalls about a half mile long.

In 1977 pursuant to section 301(b) of the Federal Water Pollution Control Act, the Environmental Protection Agency issued effluent limitations for different types of bleached kraft pulp, paper, and paperboard mills discharging into navigable waters. These regulations impose discharge limits based on the application of the best practicable control technology currently available. The two mills involved sought a variance from these discharge limits from the State of California, which was administering its own permit program under section 402 of the act, for biochemical oxygen demand and pH. On March 17, 1977, the water quality control board of the State of California granted the requested variance. In so doing, the State board concluded, among other things, that neither the discharge of BOD nor pH resulted in a discernible impact or threat of damage to the marine environment.

In September 1977 the Administrator of the Environmental Protection Agency vetoed the State discharge permits and denied the variance requests. This decision was upheld by the courts. For the past year a coalition of industry, environmental, consumer, local government, and citizens groups has been working together to seek a solution to the problem brought about the EPA decision. Administrative relief under the Federal Water Pollution Control Act has been sought but does not appear to be available. Therefore, a legislative solution appears necessary.

H.R. 7159 has been drafted very narrowly so that it applies only to the unique set of circumstances involved in the case of the two mills. It is not to be construed as a change in overall committee policy nor as setting a precedent. The committee wishes to emphasize that it fully supports the goals, objectives, and requirements of the Federal Water Pollution Control Act.

The committee reaffirms its commitment to the basic approach of the Federal Water Pollution Control Act of uniform national technology-based standards for industrial discharges. The committee will oppose any efforts to extend section 301(h) of the act, which relates to ocean discharge modification from secondary treatment for publicly owned sewage treatment plants, to industrial facilities. Application of section 301(h) to industrial facilities which are subject to competitive pressures would undercut the whole thrust of the act's industrial regulatory program, and give unfair advantages to coastal industries. This bill is intended to resolve a unique and extreme situation. The committee regards the industrial regulatory program as one of the most successful aspects of the Federal Water Pollution Control Act and will strongly resist any tampering with it. This legislation should not be regarded as an opening wedge in the law, but as an extremely limited adjustment which will allow the basic uniform industrial discharge standards program to continue without significance change.

## DESCRIPTION OF THE BILL

H.R. 7159 authorizes the Administrator of the Environmental Protection Agency with the concurrence of the State to issue a permit under section 402 of the Federal Water Pollution Control Act which modifies the requirements for best practicable and best conventional technology with respect to effluent limitations relating to biochemical oxygen demand and pH from discharges by an industrial discharger in the State into deep waters of the territorial seas.

The applicant must demonstrate to the satisfaction of the Administrator that:

(1) On or before March 17, 1977, the State had received authority from the U.S. Environmental Protection Agency to administer its own permit program under section 402 and the applicant had received approval from the appropriate agency of the

State for the modifications requested in the permit applied for under the provisions of H.R. 7159;

(2) The economic and environmental costs of meeting the best practicable and best conventional technology requirements and the section 403 ocean discharge criteria exceed the benefits to be obtained by an unreasonable amount:

(3) The applicant has established a system for monitoring the impact of such discharges on a representative sample of acquatic biota;

(4) The modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) There will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above the volume of discharge specified in the permit; and

(6) The discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with the provisions of H.R. 7159 and section 101(a)(2) of the act, which establishes the national goal of water quality which provides for the protection and propagation of fish, shellfish and wildlife.

The committee notes that subsection 301(m)(1)(c) requiring a monitoring program to the extent practicable is intended to mandate state of the art monitoring for deep ocean discharges and must be sufficient to ensure that the factors enumerated in paragraphs (m)(2) and (m)(4) can be properly evaluated.

Subsection (m)(1)(A) of the bill is intended to make clear the limited circumstances under which this provision would apply. Only point sources located in States that had an EPA approved NPDES permit program under section 402 of the act on or before March 17, 1977, qualify. Thus point sources in States without EPA authorization to issue NPDES permits under the act or States which received such authorization after March 17, 1977, are not entitled to modified NPDES permits under the bill.

The effluent limitations established under a permit issued under paragraph (1) of subsection 301(m) shall, in the view of the Administrator, be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies, and protect the propogation of a balanced indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms and to allow recreational activities in and on the water. The Administrator in setting the limitations must take into account seasonal variations and the need for an adequate margin of safety considering the lack of essential knowledge of the relationship between effluent limitations and water quality and the effects of discharges on beneficial uses of the receiving waters.

Permits issued under new subsection (m) may be issued for a maximum term of 5 years and may be renewed for additional periods each not to exceed 5 years upon demonstration by the applicant that the provisions of the subsection are met

Finally, the Administrator may terminate a permit issued under the subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown.

## COMPLIANCE WITH CLAUSE 2(l) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the House of Representatives, the Subcommittee on Investigations and Oversight did not hold hearings on the subject matter of the legislation.

(2) With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, H.R. 7159, as reported, does not provide new budget authority or increase tax expenditures. Accordingly, a statement pursuant to Section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received a report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act. That report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., September 23, 1982.*

Hon. JAMES J. HOWARD,
*Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 7159, a bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, as ordered reported by the House Committee on Public Works and Transportation.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

(4) With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the following information is provided: The effect of carrying out H.R. 7159, as reported, is negligible with respect to prices and costs.

## COST OF LEGISLATION

Clause 7(a) of ruleXIII of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 7159, as reported, in Fiscal Year 1982, and each of the following five years. However, under paragraph (d) of clause 7 its provisions do not apply when the Committee has received a timely report from the Congressional Budget Office.

## COMMITTEE ACTION AND VOTE

The Committee, in compliance with rule XI(2)(l)(2)(A) of the Rules of the House of Representatives, reports favorably the bill H.R. 7159. The Committee ordered the bill reported by voice vote.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic; existing law in which no change is proposed is shown in roman):

## SECTION 301 OF THE FEDERAL WATER POLLUTION CONTROL ACT

### EFFLUENT LIMITATIONS

SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

* * * * * * *

*(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates to the satisfaction of the Administrator that—*

*(A) on or before March 17, 1977, the State had authority to administer its own permit program under section 402 and the applicant had received approval from the appropriate agency of such State for the modifications requested in the permit applied for under this subsection;*

*(B) the economic and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 by any unreasonable amount the benefits to be obtained, including the objectives of this Act;*

*(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota, to the extent practicable;*

*(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;*

*(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit; and*

*(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act.*

*(2) The effluent limitations established under a permit issued under paragraph (1) shall, in the view of the Administrator, be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife and other equatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.*

*(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for additional periods not to exceed five years each upon a demonstration by the by the applicant to the satisfaction of the Administrator at the time of application for any such renewal that the provision of this subsection are met.*

*(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown.*

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## Union Calendar No. 540

97TH CONGRESS
2D SESSION

# H. R. 7159

**[Report No. 97–868]**

To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1982

Mr. CLAUSEN (for himself, Mr. HOWARD, Mr. ROE, and Mr. HAMMERSCHMIDT) introduced the following bill; which was referred to the Committee on Public Works and Transportation

SEPTEMBER 23, 1982

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# A BILL

To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates to the satisfaction of the Administrator that—

"(A) on or before March 17, 1977, the State had authority to administer its own permit program under section 402 and the applicant had received approval from the appropriate agency of such State for the modifications requested in the permit applied for under this subsection;

"(B) the economic and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota, to the extent practicable;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit; and

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall, in the view of the Administrator, be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for additional periods not to exceed five years each upon a demonstration by the applicant to the satisfaction of the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown.".

# CHAPTER VI

## PUBLIC LAW 97-117

TEXT OF MUNICIPAL CONSTRUCTION GRANT AMENDMENTS OF 1981 (*PUBLIC LAW 97-117*); HOUSE AND SENATE DEBATE AND PASSAGE OF CONFERENCE REPORT TO ACCOMPANY H.R. 4503, DECEMBER 1981; CONFERENCE REPORT ON H.R. 4503 (*HOUSE REPORT NO. 97-408*); HOUSE DEBATE AND PASSAGE OF H.R. 4503, OCTOBER 1981; HOUSE COMMITTEE REPORT ON H.R. 4503 (*HOUSE REPORT NO. 97-270*); H.R. 4503, AS REPORTED; SENATE DEBATE AND PASSAGE OF S. 1716, OCTOBER 1981; SENATE COMMITTEE REPORT ON S. 1716 (*SENATE REPORT NO. 97-204*); S. 1716, AS REPORTED; ADMINISTRATION TESTIMONY AT 1981 HOUSE HEARINGS; HOUSE DEBATE AND PASSAGE OF H.R. 2957, MAY 1981; HOUSE COMMITTEE REPORT ON H.R. 2957 (*HOUSE REPORT NO. 97-90*); H.R. 2957, AS REPORTED.

**Note:** The Municipal Construction Grant Amendments of 1981 revised and extended the Title II wastewater treatment grants program for four years, through fiscal year 1985. The House Public Works and Transportation Committee approved and reported H.R. 4503 October 9, 1981. The House considered and passed the bill on October 27, by a 382-18 vote. The Senate Environment and Public Works Committee approved and reported S. 1716 October 7, 1981. The Senate considered and passed the bill on October 27, 1981, by voice vote. The Senate passed H.R. 4503, amended, in lieu of S. 1716 on October 29. On December 16, 1981, the House and Senate agreed to the conference report on H.R. 4503 by voice vote. President Reagan signed the measure into law December 29, 1981. The enacted amendments included provisions relating to matters in separate legislation, H.R. 2957, reported by the House Public Works and Transportation Committee and passed by the House on May 28, 1981.

Public Law 97-117
97th Congress

## An Act

**To amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes.**

Dec. 29, 1981
[H.R. 4503]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Municipal Wastewater Treatment Construction Grant Amendments of 1981.
33 USC 1251 note.

### SHORT TITLE

SECTION 1. This Act may be cited as the "Municipal Wastewater Treatment Construction Grant Amendments of 1981".

### ELIGIBLE CATEGORIES

SEC. 2. (a) Section 201(g)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "On and after October 1, 1984, grants under this title shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding sentence, the Administrator may make grants on and after October 1, 1984, for any project within the definition set forth in section 212(2) of this Act, other than for a project referred to in the preceding sentence, except that not more than 20 per centum (as determined by the Governor of the State) of the amount allotted to a State under section 205 of this Act for any fiscal year shall be obligated in such State under authority of this sentence.". 33 USC 1281. 33 USC 1292. 33 USC 1285.

(b) Section 211(c) of the Federal Water Pollution Control Act is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1985,". 33 USC 1291.

### GRANTS FOR STEPS 1 AND 2

SEC. 3. (a) Section 201 of the Federal Water Pollution Control Act is amended by adding a new subsection (l): 33 USC 1281

"(l)(1) After the date of enactment of this subsection, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications, and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 202(a) of this Act, based on the percentage of total project costs which the Administrator determines is the general experience for such projects. 33 USC 1282.

"(2)(A) Each State shall use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to advance to potential grant applicants under this title the costs of facility planning or the preparation of plans, specifications, and estimates.

"(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant which is a small community and which in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

"(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reduce the amount of such grant by the allowance established under paragraph (1) of this subsection. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.".

### MITIGATION AND SPECIAL PROCESSES

Grants.
33 USC 1281.

SEC. 4. Section 201 of the Federal Water Pollution Control Act is amended by adding the following new subsection:

33 USC 1285.

"(m)(1) Notwithstanding any other provisions of this title, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 205 of this Act to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board.

"(2) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of Eureka, California, in connection with project numbered C-06-2772, for the purchase of one hundred and thirty-nine acres of property as environmental mitigation for siting of the proposed treatment plant.

"(3) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of San Diego, California, in connection with that city's aquaculture sewage process (total resources recovery system) as an innovative and alternative waste treatment process.".

### COMBINED SEWER OVERFLOW

33 USC 1281.

SEC. 5. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

33 USC 1285.

"(n)(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

*Post*, p. 1630.

"(2) Beginning fiscal year 1983, the Administrator shall have available $200,000,000 per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.".

### CAPITAL FINANCING

SEC. 6. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: 33 USC 1281.

"(o) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—

"(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

"(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

"(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.".

### FEDERAL SHARE

SEC. 7. The first sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended by inserting after "1971," the following: "and ending before October 1, 1984,". The first sentence of such section is further amended by inserting after "(as approved by the Administrator)," the following: "and for any fiscal year beginning on or after October 1, 1984, shall be 55 per centum of the cost of construction thereof (as approved by the Administrator),". Such section 202(a)(1) is further amended by adding at the end thereof the following new sentence: "Notwithstanding the first sentence of this paragraph, in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors or a project for infiltration-in-flow correction has received a grant for erection, building, acquisition, alteration, remodeling, improvement, extension, or correction before October 1, 1984, all segments and phases of such facility, interceptors, and project for infiltration-in-flow correction shall be eligible for grants at 75 per centum of the cost of construction thereof.". 33 USC 1282.

### INNOVATIVE AND ALTERNATIVE PROCESSES

SEC. 8. (a) Section 202(a)(2) of the Federal Water Pollution Control Act is amended by inserting after the first sentence the following: "The amount of any grant made after September 30, 1981, for any eligible treatment works or unit processes and techniques thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be a percentage of the cost of construction thereof equal to 20 per centum greater than the percentage in effect under paragraph (1) of this subsection for such works or unit processes and techniques, but in no event greater than 85 per centum of the cost of construction thereof.". 33 USC 1281.

(b) Section 202(a)(4) of the Federal Water Pollution Control Act is amended by striking out "in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981" and by striking out the last sentence. 33 USC 1282.

(c) Section 205(i) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," in the first sentence and inserting in lieu thereof "September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985," and by striking out "from 75 per centum to 85 per centum", 33 USC 1285.

and by adding at the end thereof the following: "Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 per centum nor more than 7½ per centum of the funds allotted to such State for any fiscal year beginning after September 30, 1981, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".

33 USC 1292.

(d) Section 212(1) of the Federal Water Pollution Control Act is amended by inserting after "procedures," the following: "field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 304(d)(3) of this Act,".

33 USC 1314.

### COMBINED STEP 2 AND 3 GRANTS

94 Stat. 2362.
33 USC 1283.

Sec. 9. Section 203(a) of the Federal Water Pollution Control Act is amended by striking "$4,000,000" and inserting in lieu thereof "$8,000,000". The last sentence of such section 203(a) is hereby repealed.

### RESERVE CAPACITY

33 USC 1284.

Sec. 10. (a) Section 204(a)(5) of the Federal Water Pollution Control Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "Beginning October 1, 1984, no grant shall be made under this title to construct that portion of any treatment works providing reserve capacity in excess of existing needs (including existing needs of residential, commercial, industrial, and other users) on the date of approval of a grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of a project for secondary treatment or more stringent treatment or new interceptors and appurtenances, except that in no event shall reserve capacity of a facility and its related interceptors to which this subsection applies be in excess of existing needs on October 1, 1990. In any case in which an applicant proposes to provide reserve capacity greater than that eligible for Federal financial assistance under this title, the incremental costs of the additional reserve capacity shall be paid by the applicant;".

(b) Section 204 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(c) The next to the last sentence of paragraph (5) of subsection (a) of this section shall not apply in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors has received a grant for erection, building, acquisition, alteration, remodeling, improvement, or extension before October 1, 1984, and all segments and phases of such facility and interceptors shall be funded based on a 20-year reserve capacity in the case of such facility and a 20-year reserve capacity in the case of such interceptors, except that, if a grant for such interceptors has been approved prior to the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, such interceptors shall be funded based on the approved reserve capacity not to exceed 40 years.".

*Ante*, p. 1623.
94 Stat. 2361.
33 USC 1281.
Expiration date.

(c) Section 201(k) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "This subsection shall not be in effect after November 15, 1981.".

### BRAND NAME

SEC. 11. Section 204(a)(6) of the Federal Water Pollution Control Act is amended by striking out ", or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal' " and by adding at the end thereof the following: "When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.".

33 USC 1284.

### ENGINEERING PERFORMANCE

SEC. 12. Section 204 of the Federal Water Pollution Control Act is amended by adding the following new subsection:

"(d)(1) A grant for the construction of treatment works under this title shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this title.

"(2) On the date one year after the completion of construction and initial operation of such treatment works, the owner and operator of such treatment works shall certify to the Administrator whether or not such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to section 402 of the Act for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

33 USC 1342.

"(3) Nothing in this section shall be construed to prohibit a grantee under this title from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a contract pertaining to a project assisted under this title, than those provided under this subsection.".

### ALLOTMENT FORMULA

SEC. 13. (a) Section 205(c) of the Federal Water Pollution Control Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

33 USC 1285.

"(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, 1984, and 1985 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. Notwithstanding any other provision of law, sums authorized for the fiscal year ending September 30, 1982, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public

*Post*, p. 1630.

Works and Transportation of the House of Representatives. Sums authorized for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, shall be allotted in accordance with the following table:

| States: | Fiscal years 1983 through 1985 |
|---|---|
| Alabama | .011398 |
| Alaska | .006101 |
| Arizona | .006885 |
| Arkansas | .006668 |
| California | .072901 |
| Colorado | .008154 |
| Connecticut | .012487 |
| Delaware | .004965 |
| District of Columbia | .004965 |
| Florida | .034407 |
| Georgia | .017234 |
| Hawaii | .007895 |
| Idaho | .004965 |
| Illinois | .046101 |
| Indiana | .024566 |
| Iowa | .013796 |
| Kansas | .009201 |
| Kentucky | .012973 |
| Louisiana | .011205 |
| Maine | .007788 |
| Maryland | .024653 |
| Massachusetts | .034608 |
| Michigan | .043829 |
| Minnesota | .018735 |
| Mississippi | .009184 |
| Missouri | .028257 |
| Montana | .004965 |
| Nebraska | .005214 |
| Nevada | .004965 |
| New Hampshire | .010186 |
| New Jersey | .041654 |
| New Mexico | .004965 |
| New York | .113097 |
| North Carolina | .018396 |
| North Dakota | .004965 |
| Ohio | .057383 |
| Oklahoma | .008235 |
| Oregon | .011515 |
| Pennsylvania | .040377 |
| Rhode Island | .006750 |
| South Carolina | .010442 |
| South Dakota | .004965 |
| Tennessee | .014807 |
| Texas | .038726 |
| Utah | .005371 |
| Vermont | .004965 |
| Virginia | .020861 |
| Washington | .017726 |
| West Virginia | .015890 |
| Wisconsin | .027557 |
| Wyoming | .004965 |
| Samoa | .000915 |
| Guam | .000662 |
| Northern Marianas | .000425 |
| Puerto Rico | .013295 |
| Pacific Trust Territories | .001305 |
| Virgin Islands | .000531 |
| United States totals | .999996 |

33 USC 1285.

(b) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1981" each of the two places it appears and inserting in lieu thereof at each such place "1981, 1982, 1983, 1984, and 1985".

### STATE ADMINISTRATION GRANTS

SEC. 14. (a) The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting immediately after "October 1, 1977," the following: "except in the case of any fiscal year beginning on or after October 1, 1981, and ending before October 1, 1985, in which case the percentage authorized to be reserved shall not exceed 4 per centum.". 33 USC 1285.

(b) Section 205(g)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.".

### WATER QUALITY MANAGEMENT PLANNING

SEC. 15. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or $100,000, whichever amount is the greater.

"(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—

"(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

"(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);

"(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

"(D) determining those publicly owned treatment works which should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 303(e) of this Act. 33 USC 1313.

"(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.

"(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.".

### CONVENTION CENTER

SEC. 16. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection: 33 USC 1285.

"(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the

Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.".

### AUTHORIZATION

*Ante*, p. 764.
33 USC 1287.

SEC. 17. Section 207 of the Federal Water Pollution Control Act is amended by striking out all that follows "$2,548,837,000;" and inserting in lieu thereof "and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year.".

### WATER QUALITY PRIORITY

33 USC 1296.

SEC. 18. Section 216 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.".

### COST EFFECTIVENESS

SEC. 19. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "COST EFFECTIVENESS

Waste treatment system.
33 USC 1298.

"SEC. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or which is used for ultimate disposal of residues resulting from such treatment; water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.

33 USC 1281.

"(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.

"(c) In furtherance of the policy set forth in subsection (a) of this section, the Administrator shall require value engineering review in connection with any treatment works, prior to approval of any grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of such treatment works, in any case in which the cost of such erection, building, acquisition, alteration, remodeling, improvement, or extension is projected to be in excess of $10,000,000. For purposes of this subsection, the term 'value engineering review' means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project. "Value engineering review."

"(d) This section applies to projects for waste treatment and management for which no treatment works including a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under this Act before the date of enactment of this section.".

### STATE CERTIFICATION

SEC. 20. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "STATE CERTIFICATION OF PROJECTS

"SEC. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance under this title, the Administrator shall approve or disapprove such application within 45 days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within 45 days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.". 33 USC 1299.

### MUNICIPAL COMPLIANCE DEADLINE

SEC. 21. (a) Section 301(i) of the Federal Water Pollution Control Act is amended by striking out "July 1, 1983," each place it appears and inserting in lieu thereof "July 1, 1988,". The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 301(b)(1) (B) or (C) of the Federal Water Pollution Control Act beyond schedules for compliance in effect as of the date of enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983. 33 USC 1311. 33 USC 1311 note.

33 USC 1311. (b) Section 301(b)(2)(B) of the Federal Water Pollution Control Act is repealed.

### OCEAN DISCHARGES

SEC. 22. (a) Section 301(h) of the Federal Water Pollution Control Act is amended in the portion preceding paragraph (1) by striking out "in an existing discharge".

(b) Such section 301(h) is amended by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and by striking out paragraph (8).

(c) Such section 301(h) is further amended by adding at the end thereof the following: "A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters.".

(d) Section 301(j)(1) of the Federal Water Pollution Control Act is amended by striking out clause (A) and inserting in lieu thereof the following new clause:

> "(A) subsection (b)(1)(B) under subsection (h) of this section shall be filed not later that the 365th day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981;".

Effective date. 33 USC 1311 note. (e) The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.

### SECONDARY TREATMENT DEFINITION

33 USC 1314. SEC. 23. Section 304(d) of the Federal Water Pollution Control Act is amended by adding the following new paragraph:

"(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.".

### REVISED WATER QUALITY STANDARDS

33 USC 1313a. 33 USC 1313. SEC. 24. The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Federal Water Pollution Control Act shall be completed by the date three years after the enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. No grant shall be made under title II of the Federal Water Pollution Control Act after such date until water quality standards are reviewed and revised pursuant to section 303(c), except where the State has in good faith submitted such revised water quality standards and the Admin-

**istrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt.**

### NEEDS SURVEY

Report to Congress. 33 USC 1375 note.

**SEC. 25. The Administrator of the Environmental Protection Agency shall submit to the Congress, not later than December 31, 1982, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 516(b) of the Federal Water Pollution Control Act, including an estimate of the total cost and the amount of Federal funds necessary for the construction of needed publicly owned treatment facilities. Such report shall be prepared in the same manner as is required by such section and shall reflect the changes made in the Federal water pollution control program by this Act and the amendments made by this Act. In preparing this report, the Administrator shall give emphasis to the effects of the amendment made by section 2(a) of this Act in addressing water quality needs adequately and appropriately.**

33 USC 1375.

### JUDICIAL NOTICE

**SEC. 26. It is the sense of Congress that judicial notice should be taken of this Act and of the amendments to the Federal Water Pollution Control Act made by this Act, including reduced authorization levels under section 207 of such Act, and that the parties to Federal consent decrees establishing a deadline, schedule, or timetable for the construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions.**

*Ante*, p. 1630.

### BATH TOWNSHIP

**SEC. 27. For purposes of the Federal Water Pollution Control Act, the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allocated to the State of Michigan under such Act in an amount equal to the amount such works would be eligible for under section 202 of such Act if such works were to be constructed after the date of enactment of this Act, at the original construction cost.**

33 USC 1282.

Approved December 29, 1981.

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LEGISLATIVE HISTORY—H.R. 4503 (S. 1716):

HOUSE REPORTS: No. 97-270 (Comm. on Public Works and Transportation) and No. 97-408 (Comm. of Conference).
SENATE REPORT No. 97-204 accompanying S. 1716 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 127 (1981):
Oct. 27, considered and passed House; S. 1716 considered and passed Senate.
Oct. 29, considered and passed Senate, amended, in lieu of S. 1716.
Dec. 6, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 17, No. 53 (1981):
Dec. 29, Presidential statement.

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# HOUSE DEBATE ON CONFERENCE REPORT TO ACCOMPANY H.R. 4503

*December 16, 1981*

(Congressional Record, vol. 127, part 24, 31772-31786)

## CONFERENCE REPORT ON H.R. 4503, MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANT AMENDMENTS OF 1981.

Mr. ROE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROE. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 14, 1981.)

Mr. ROE (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. ROE) will be recognized for 30 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD), the distinguished chairman of the Committee on Public Works and Transportation.

(Mr. HOWARD asked and was given permission to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 4503, the Municipal Wastewater Treatment Construction Grant Amendments of 1981.

I wish to commend the chairman of the Subcommittee on Water Resources, the gentleman from New Jersey (Mr. ROE), and the ranking minority member of that subcommittee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), as well as all of the members of the subcommittee for the fine job which has been done on this legislation. I also wish to express my appreciation to the ranking member of the full committee, the gentleman from California (Mr. CLAUSEN), for his usual cooperation and assistance. Finally, I wish to acknowledge the excellent job done by the House conferees in defending the House position on this important legislation.

The present Federal water pollution control program stems from major amendments made in the Federal Water Pollution Control Act Amendments of 1972. The 1972 act established a comprehensive program for the cleanup of our Nation's waters. Considerable progress has been made to date and it is important that this progress continue. Earlier this year, the administration proposed substantial changes in the program and stated that funding for fiscal year 1982 would not be supported unless these changes were made.

Our committee, after considerable efforts, reported H.R. 4503 which passed the House on October 27, 1981, by the overwhelming margin of 382 to 18. Shortly thereafter the Senate passed its version of this legislation. The agreement of the conferees represents a fair compromise which reasonably addresses the concerns of the House, the Senate, and the administration.

The conference agreement recognizes the need to reduce the Federal involvement in this program because of existing and expected budgetary constraints. It does so, however, in a manner which gives the States and local communities time to adjust to their increased responsibilities. The changes agreed to by the conferees take place after October 1, 1984. The program reamins essentially intact until that date. After October 1, 1984, the Federal share is reduced from 75 to 55 percent. Also, the categories eligible for assistance are limited to treatment plants, interceptors, and infiltration-inflow correction. For projects which receive a step 3 construction grant before October 1, 1984, existing reserve capacity and the 75-percent Federal share are preserved.

With these provisions we have avoided harmful disruption to this very necessary program. It is essential that our Nation's commitment to clean waters not be abandoned. It is too important to the welfare of our people and to our economy as well. Our committee intends to continue its examination of this program in order to insure that it continues as a viable one.

Mr. Speaker, I believe that the conference agreement is reasonable and deserves the same overwhelming support that was given the House bill last October. I urge its passage.

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ROE asked and was given permission to revise and extend his remarks.)

□ 1750

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROE. Mr. Speaker, I yield to the distinguished gentleman from California, the ranking minority leader of our subcommittee (Mr. CLAUSEN).

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I rise in strong support of the Conference Report on the Municipal Wastewater Construction Grants Amendments of 1981 and I urge my colleagues to do likewise. This legislation has been hammered out over the course of the past year with our colleagues in the Senate, taking into consideration the administration's commitment to reform EPA's construction grants program, and I believe we have done an excellent job under most trying circumstances.

All of the members who have labored so hard on this legislation are to be congratulated for the product that is before us today. Special recognition belongs to the chairman of the Public Works and Transportation Committee, the gentleman from New Jersey (Mr. HOWARD), who provided the strong leadership and encouragement that has been the hallmark of his tenure as Public Works Committee chairman. The leadership of our Subcommittee on Water Resources, Chairman BOB ROE from New Jersey, and ranking Republican JOHN PAUL HAMMERSCHMIDT from Arkansas, also deserve particular credit for developing the original version of H.R. 4503, which the House passed just a few weeks ago by the overwhelming vote of 382 to 18, and for negotiating the excellent compromise that is embodied in this conference report. And of course, Mr. Speaker, the staffs of both the House and Senate Public Works Committees on both sides of the aisle should be recognized for their outstanding efforts in connection with this legislation.

Mr. Speaker, when President Reagan took office less than a year ago, he initiated a program of major realinement with respect to governmental responsibility. The general thrust of his realinement was to reduce substantially the role that the Federal Establishment plays in the governmental process.

Within this overall context, the President proposed reducing the funding level authorized for fiscal year 1982 for EPA's construction grants program from $5 billion to $2.4 billion. Furthermore, the President proposed no wastewater treatment plant funding until legislation reforming the EPA's construction grants program was first enacted into law.

The conference report on H.R. 4503 represents the reform legislation that the Congress has developed in response to the President's initiative. I believe that the process has been extremely difficult and in some cases a painful one, but it has been most beneficial and the President and his emissaries, Ann Gorsuch and John Hernandez from the Environmental Protection Agency, are to be congratulated for taking the lead with respect to the need to reform this important environmental legislation.

Mr. Speaker, I agree with President Reagan's goal of balancing the budget and have supported and will continue to support efforts to achieve that goal. At the same time I believe we must be particularly painstaking in our efforts to insure that our budget balancing decisions are the best, most informed decisions possible.

This is especially important with respect to capital investments designed to further the development of the Nation's commerce and industry and the well-being of our people. For all their contributions to the Nation, public works investment programs are particularly vulnerable to disproportionate reductions when there are cutbacks nationwide for budgetary reasons. Because the programs are national in scope, the numbers are large and present a tempting target. They are characterized by long leadtimes and therefore are anticipatory; they must be commenced long before needs become critical. The deterioration they are intended to compensate for is slow, gradual, incremental, and diffused. Cutbacks are not immediately translated into public perception that needs are being shortchanged. Like our economic system in general, they are often taken for granted.

This situation poses a serious budgetary danger. While we quite correctly pursue a course over the immediate future of reducing our Federal spending, we must strike a very careful balance. Excess cuts in public works investments could shortchange vitally needed programs and undercut the larger economic objectives which the cuts are intended to achieve.

In this context, it is precisely because I share the President's vision of a revitalized, reindustrialized America that I accord great priorities to our public works programs on which so much of the economy's vitality and the people's well-being depends. In other words, in attempting to address our immediate economic needs, we must guard against actions that could ultimately lead to severely undercutting our Nation's program of long-term revitalization.

I am convinced that the package of reforms embodied in the conference report before us today properly recognizes the need to balance budgetary objectives with equally important environmental objectives. H.R. 4503 significantly reduces the level of authorized Federal funding for EPA's construction grants program. It does this, not because there is either a realization or a perception that we do not have water quality needs greater than those able to be addressed by a $2.4 billion funding level. Rather, the conference report recognizes that, in these times of special economic sensitivity, the Federal Government is unable to spend as much money as some would like to address legitimate water quality problems. At the same time, the amendments to the Clean Water Act made by H.R. 4503 continue to provide for stability and viability in our Nation's clean water program.

Mr. Speaker, I believe that the House, in passing the original provisions of H.R. 4503, and the conferees, in fashioning the compromise embodied in this conference report, were guided by a number of key concepts.

First, the hallmark of our efforts was balance and consensus. For too long we have attempted to solve our problems in an atmosphere of hostility and contentiousness and, with this legislation, we attempted to create a new and better precedent with respect to the development of essential environmental legislation.

Second, we never lost sight of how important it is—and will continue to be—to preserve and enhance the quality of our Nation's waters. I am convinced that all of the conferees believe, as I do, that, while we inherit the Earth from our fathers, we also borrow it from our children.

Third, even while we sought all possible ways of eliminating environmental hazards, we were guided by the conviction that it is impossible for us to have a society that is without risk. We recognized that our task must be to identify those risks that are socially acceptable, that we willingly assume because the alternatives are far more damaging.

Fourth, we viewed achieving our clean water goals in a total or wholistic sense, always seeking to balance our environmental objectives against equally important economic, social, and international purposes. There was recognition that economic, energy, environmental, and social objectives were not opposed to one another; all must be coordinated in the attainment of the quality of life our people want and to which they are entitled.

Fifth, the policies we adopted were, I believe, founded on sound technical bases with assurance as to feasibility of implementation and with due regard for cost effectiveness. Implementation will allow for flexibility both in means and schedules to achieve our clean water goals.

Sixth, procedures were adopted to expedite decisionmaking in recognition of the fact that unnecessary delay harms both the environment and the economy.

Seventh, we made a special concerted effort to find new and better ways of addressing our water pollution needs. Strong incentives were developed to create more cost effective, resource efficient, reliable solutions to our clean water problems.

Eighth, the Clean Water Act establishes a national water pollution control program. As such, the conferees understood that the act must recognize and be equipped to respond to the legitimate significant water pollution needs of all regions and areas of our country: North and South, East and West, large and small, urban and rural.

Ninth, because we were dedicated to lessening the heavy Federal presence from every area of our national life, we strived to limit Federal intervention to those responsibilities which the National Government is uniquely qualified to carry out. We attempted to minimize the role that the Federal Government plays in attempting to solve our problems and emphasized, instead, reliance on institutions and individuals better equipped to deal with those problems.

And, finally, State and local governments were truly given a greater voice in determining environmental policy and a greater role in its administration. With the enactment into law of H.R. 4503, there will be more flexibility in the use of funds given to the States for environmental programs. Where authority is assigned to State and local levels, the delegation is intended to be a true one so that the process is made simple, and is not simply the addition of another tier of regulation.

Mr. Speaker, others have discussed in detail explanations of this conference report's provisions. I would just like to add some clarification on a few of those provisions.

Section 4 of the conference report directs the Administrator of the Environmental Protection Agency to make three grants for certain projects already in EPA's construction grants pipeline.

The first involves the expansion of the Southeast Sewage Treatment Plant located in the Bayview/Hunter's Point area of San Francisco. In order to mitigate the odors, noise, and visual impacts, and other adverse effects on the community identified in EPA's environmental evaluation of the proposed plant expansion, it was agreed that a greenhouse/skills training center would be constructed adjacent to the Southeast Sewage Treatment Plant. The center is to be connected to the plant by pipes which will carry methane to heat the center. In addition, sludge from the treatment plant will be used as fertilizer for the greenhouse.

A favorable grant eligibility determination and commitment to a $15 million greenhouse/skills training project was made on January 22, 1981, by the California State Water Resources Control Board, which acts as EPA's representative in determining grant eligibility in the State of California. However, although EPA was fully aware of CSWRCB's decisions, it was not until several months ago that EPA—incorrectly, the conferees believe—informed San Francisco that the greenhouse/skills center would not be eligible for grant funding under the Clean Water Act. In the meantime, the city and county of San Francisco had begun construction of the expansion to the Southeast Sewage Treatment Plant.

The second matter intended to be covered by this section involves the Greater Eureka wastewater treatment project. In the Eureka project, approximately 139 acres of property adjacent to the proposed Eureka Treatment Plant are considered to be environmental mitigation for siting of the proposed treatment plant and holding pond on 16 acres of wetland. The 139-acre site is to be dedicated as permanent open space and maintained and managed as a wetland/wildlife area, having the dual purpose of acting as a demonstration project to improve water quality while at the same time insuring restoration and enhancement of habitat values of a substantial wetland area. On November 21, 1980, the California State Water Resources Control Board issued its concept approval letter informing the city of Eureka and the U.S. Environmental Protection agency of its determination that the purchase of the 139 acres was grant eligible. A little less than 2 weeks later, on December 3, the city of Eureka's mayor signed and accepted a step II grant award. Subsequently EPA—again incorrectly, we believe—overturned CSWRCB's determination and advised the city that acquisition of the 139 acres was not eligible for Federal grant funds.

Both of these cases involve EPA's refusal to abide by the grant eligibility determination made by the duly appointed agency of a State having construction grants program delegation responsibilities. Both involve mitigation measures arising from the construction of a grant-eligible treatment works. Both situations involve costs associated with an integral part of the underlying grant eligible treatment works. In both instances, EPA erred in refusing to abide by the CSWRCB's grant eligibility determination.

The third project covered by section 4 of the conference report involves what the conferees believe was the need to provide innovative and alternative grant funding for the vascular plant, reverse osmosis technology that the city of San Diego is proposing for its sewage treatment recycling system.

Mr. Speaker, section 8 of the conference report deals with providing strong incentives for the use of innovative and alternative technologies and processes. As author of the original innovative and alternative technology provisions in the 1977 Clean Water Act, I am particularly heartened that the conferees agree that these provisions constitute an important opportunity to make our Nation's clean water program more cost effective and environmentally beneficial. During our Water Resources Subcommittee hearings on this construction grants reform legislation, EPA testified that "to date, EPA has found that for each dollar invested in the innovative and alternative technology program to provide this incentive, $6 is saved in project costs." The I/A provision contained in this conference report will, I am convinced, continue this excellent fiscal track record.

Mr. Speaker, I would just like to highlight one last provision of the conference report. Section 10 provides a new scheme for Federal funding of reserve capacity. Of special note, section 10 also has the effect of repealing the industrial cost exclusion (ICE) provision of the act. Section 10 provides that any grant made after November 15, 1981, for a publicly owned treatment works, will include funding for industrial capacity on the same basis as residential capacity. This is a most important provision and is one that was overwhelmingly supported by the House, in different form, on two separate occasions earlier this year.

Mr. Speaker, allow me to make one additional point. I am convinced that, perhaps more than in any other area, focusing on the tremendous wealth of talent that exists throughout our Nation offers the promise of the best water quality return for our construction grants program investment. It is a matter of investing in our Nation's infrastructure.

I spoke earlier about our national need to reinvest in our infrastructure. There, I was speaking of capital infrastructure. Here, I'm talking about something else, something perhaps far more important. I'm talking about our political, our problem-solving, our people infrastructure.

I have long believed that the best government is the one closest to the people. There, it is less costly, more accountable, and more responsible to people's needs.

But over the years I believe our people have lost sight somewhat of this fact. We have had too much of a tendency to look to someone else to solve our problems, to let the Federal Government do things for us. In the process we have lost many of the most effective solutions to our problems and a great deal of control over our destinies. We have let our people's infrastructure deteriorate.

This situation must be reversed. Nationwide, we can begin by truly returning the power and responsibility of government back where it belongs, to the hands of the people. In this way best of all we will achieve our clean water and other legitimate national objectives.

Mr. Speaker, I am convinced that the conference agreement on H.R. 4503 takes a major step in this direction. I, therefore, strongly support its passage today and urge all of my colleagues to do likewise.

Mr. ROE. Mr. Speaker, it is with great pleasure that I bring to the floor the conference report on H.R. 4503, the Municipal waste-water treatment construction grant amendments of 1981. This bill represents the culmination of months of intensive efforts in our committee and in conference with the Senate. Throughout this time the assistance of the gentleman from Arkansas, the ranking minority member of the Subcommittee on Water Resources (Mr. Hammerschmidt) has been invaluable. I also wish to express my deep appreication to the gentleman from New Jersey, the chairman of the Full Committee (Mr. Howard) for his usual fine leadership and the ranking minority member of the Full Committee, the gentleman from California (Mr. Clausen) for his outstanding cooperation and assistance. A special expression of thanks is also owed the House conferees who did an outstanding job of defending the House position in conference.

In 1972 the Congress enacted landmark legislation providing for an intensive effort to reduce and ultimately eliminate the discharge of pollutants into our Nation's waters. The Federal Water Pollution Control Act amendments of 1972 set increasingly stringent standards for discharges of industrial and municipal wastes. For municipal wastes it required secondary treatment by 1977 and the application of best practicable waste water treatment technology by 1983. The 1977 date for secondary treatment was later extended to 1983 for those communities which were unable to meet the date because of a lack of Federal funding. In connection with these new requirements for secondary and best practicable treatment, the act provided a 75 percent Federal grant share for construction of publicly owned treatment works. The grants were to be available for such categories as secondary treatment, more stringent treatment, infiltration/inflow correction, major sewer system rehabilitation, new collector sewers, interceptors and appurtenances, and correction of combined sewer overflows.

Earlier this year, the administration proposed drastic changes in the construction grants program. This was coupled with an announcement that fiscal year 1982 funding would not be supported unless the Congress passed legislation making changes in the program. Also, as part of this process, the Reconciliation Act reduced the fiscal year 1982 funding to zero with the provision that $2.4 billion would be authorized in the event that legislative changes are enacted into law.

The conference report I bring to the floor represents the response of the House and the Senate to the administration's call for changes in the program. It recognizes the need to reduce Federal participation in the program in view of existing and expected budgetary constraints. However, and this is most important, the States and localities are given a period of time in which to adjust to and make accommodations for their increased responsibility. The eligibilities for grants remain essentially intact until October 1, 1984. After that date the Federal share will be reduced from its current 75 percent to 55 percent. In addition, categories of treatment works eligible for grant assistance will be limited to secondary and more advanced treatment, interceptors and correction of infiltration/inflow problems. However, up to 20 percent of a State's annual allotment as determined by the Governor may be used to fund otherwise ineligible categories such as collector sewers, sewer rehabilitation, and correction of combined sewer overflows. With regard to reserve capacity, projects which receive a step 3 construction grant for a treatment plant or interceptor prior to October 1, 1984, will remain eligible for grant assistance for 20 years for reserve capacity in the funding of the remainder of the treatment plant and 20 to 40 years for interceptors. For projects receiving the first construction grant after October 1, 1984, Federal grant assistance will be limited to the capacity needed to meet the needs (industrial and residential) existing as of the date of award of the step 3 construction grant. However, grant assistance will not be available for needs over and above those existing on October 1, 1990.

With regard to the Federal share, if a step 3 construction grant is approved before October 1, 1984, for a segment of a treatment plant or interceptor, then subsequent grants for the rest of the treatment plant, interceptors, and infiltration/inflow correction will be at 75 percent.

The statement of managers includes language urging the appropriation of funds to implement section 206 of the Federal Water Pollution Control Act. This section provides a mechanism for the reimbursement of communities which proceed with construction of treatment works at their own expense if the treatment works meet all of the requirements of the act. This enables communities to save money by moving ahead before Federal funds are available and thus avoid the increased costs associated with inflation. this provision of the act, however, has not been funded in appropriations acts. This has resulted in an unfortunate and unnecessary increase in cost for the program, both to local interests and to the Federal Government. With the reductions in Federal assistance incorporated in H.R. 4503, it is even more necessary that ways be found to decrease overall costs associated with the reduction of pollution of our Nation's waters. Permitting construction at present-day prices, with reimbursement later is one way of doing this.

Mr. Speaker, one glaring example of the types of difficulties which are created because of the lack of proper implementation of the reimbursement provision in the act is found in the district of my distinguished colleague, Mr. MOTTL. The four communities of Rocky River, Bay Village, Fairview Park, and Westlake in suburban Cleveland, Ohio, built a sewer treatment plant with EPA guidance. However, when this "pilot program" plant was completed it turned out that it did not operate properly. The plant when finally completed with design modifications will serve about 80,000 residents. The attempts on the part of local communities to receive reimbursement from EPA go back many years. They have been unsuccessful both because of the lack of funding for section 206 and because of EPA's unwarranted allegation that the project involving as it does advanced technology of an experimental nature does not meet the criteria of a "normal" construction grant project. I wish to assure the gentleman that in my opinion the local communities are entitled to reimbursement and should be reimbursed upon the appropriation of funds for that purpose.

There is one other provision in the conference agreement that I would like to mention. Section 4 provides that the Administrator shall make a grant, from any funds otherwise allotted to the State of California, to the city of San Diego in connection with that city's aquaculture sewage process system as an innovative and alternative waste treatment process.

The city of San Diego is planning to construct a wastewater-to-potable recycle system. The product of this system will be not only treated sewage but potable water. This is the type of innovative and alternative project which is truly worthwhile because of its potential for establishing the practicability of reclaiming water for municipal purposes. This is the sort of thing which should be encouraged, especially in view of the droughts which have occurred in recent years. Our committee has long maintained the importance of the relationship between water quality and water quantity. They are inseparable. Section 4 embodies this principle.

Section 4 also provides that the Administrator shall make grants from funds allotted to the State of California for mitigation features associated with waste treatment projects in San Francisco and Eureka, Calif. Grants for these features were approved by the State pursuant to its delegated authority and were not disapproved by EPA until some time later. The provisions in section 4 are designed to correct the inequity which would result if the local communities were now required to pay the cost associated with these features after proceeding under the assumption that they would be grant eligible.

Mr. Speaker, I am including as part of my statement a brief section-by-section analysis of the bill agreed to by the conferees.

I believe this is a workable bill which will provide an opportunity for State and local governments to adjust to the changes made in the program. It will also provide us with the opportunity to continue our examination of the program and to make whatever further changes are determined to be necessary to assure its sound and equitable operation. The cleanup of our Nation's waters is a matter of immense importance to all of the citizens of this country. We must not sacrifice our commitment to the goal of clean water for purely budgetary reasons, because the cost we will pay for water pollution will far outweigh any costs of correcting the problem. I urge passage of the bill.

At this point I include the analysis of the conference report on H.R. 4503:

### ANALYSIS OF THE CONFERENCE REPORT ON H.R. 4503

Section 1 provides that this act may be cited as the "Municipal Wastewater Treatment Construction Grant Amendments of 1981".

Section 2 provides that after October 1, 1984, grants may be made only for projects for secondary or more stringent treatment plants, new interceptors and appurtenances, and infiltration-inflow correction. Beginning on that date, any State may, at its option, use up to 20 percent of its annual allotment to fund categories of projects other than secondary treatment plants, new interceptors and appurtenances, and infiltration-inflow correction.

Section 3 eliminates, effective upon the date of enactment, grants for step 1 planning and step 2 design work. Instead, these costs will be reimbursed to the grantee upon award of the step 3 construction grant. States are required to use a portion of their funds to make advances to communities needing assistance in preparing planning and design work.

Section 4 amends section 201 of the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for mitigation expenses and for special processes in the cases of projects in San Francisco, Eureka, and San Diego, Calif.

Section 5 provides two methods for funding correction of combined sewer overflow problems, notwithstanding section 2. First after October 1, 1984, the Governor of a State may request that CSO problems be funded out of the State's regular allotment, rather than the 20 percent discretionary allowance, where correction of CSO discharges is a major priority of the State. Second, beginning fiscal year 1983, $200,000,000 per year is authorized to correct CSO discharges into marine bays and estuaries.

Section 6 directs the Administrator to encourage and assist grant applicants to develop and file capital financing plans which will project future treatment needs, costs, and methods of financing.

Section 7 provides that until October 1, 1984, the grant amount for eligible projects shall be 75 percent of the cost of construction. Beginning October 1, 1984, the grant amount for eligible projects shall be 55 percent of the cost of construction. However, where a grant for construction of a primary, secondary, or advanced waste treatment facility and related interceptors or for correction of infiltration-inflow was awarded prior to October 1, 1984, all subsequent segments and phases of such facility, related interceptors, and infiltration-inflow correction shall be 75 percent of the cost of construction.

Section 8 makes permanent the authority of the Administrator to make grants for projects using innovative and alternative processes and techniques, and provides that the Federal share of such grants shall be 20 percentage points greater than the prevailing Federal share, but in no event greater than 85 percent. Each State is required to set aside no less than 4 percent and no more than 7½ percent, for increasing the Federal share of such projects. Grants may be made for any innovative or alternative "operable unit" of a treatment system, including sewers, correction of combined sewer overflows, infiltration-inflow correction, and major rehabilitation. In addition the definition of treatment works in section 212 of the Federal Water Pollution Control Act is amended to allow for the grant eligibility of field testing of innovative or alternative waste treatment processes and techniques.

Section 9 amends section 203(a) of the Federal Water Pollution Control Act to raise the estimated cost limitation on small projects which may receive a combined step 2 design and step 3 construction grant from $4 million to $8 million.

Section 10 provides that beginning October 1, 1984, no grant shall be made to construct that portion of any treatment works providing capacity in excess of flows (including residential, commercial, industrial, and other flows) existing at the time of approval of the step 3 construction grant, but in no event shall the capacity funded exceed that necessary to treat flows existing on October 1, 1990. However, if a treatment plant or its associated interceptors has received any step 3 construction grant prior to October 1, 1984, remaining segmented or phased grants for that treatment plant and associated interceptors shall be eligible for funding consistent with reserve capacity which is currently eligible: 20 years for the plant and 20 to 40 years for the interceptors. Also, grants awarded prior to October 1, 1984, include funding for reserve capacity incorporated in associated collectors.

Section 11 modifies the requirement that two brand names or equal be listed in a proprietary specification for bids by providing that when it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used.

Section 12 requires that the prime consultant to a grantee remain on the site for one year following start-up of the facility to supervise operation and training. Such activity will be grant eligible. One year after the date of completion, the owner and operator of the facility shall certify whether the facility is in compliance with its permit; if it is not, the failure must be corrected in a timely manner at other than Federal expense.

Section 13 establishes the formula for allotment of grant funds to the States for fiscal years 1982 through 1985. For fiscal year 1982, the formula shall be that which is currently in effect, which is the formula contained in table 3 of Committee Print 95-30 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized for fiscal years 1983, 1984, and 1985 shall be allotted according to a formula which is an average of the formula for fiscal year 1982 and the Senate formula for fiscal year 1984.

Section 14 provides that for fiscal years 1982 through 1985, not to exceed 4 percent of the total amount authorized for each year is authorized to be reserved for making grants to States for the costs of administering provisions of the construction grants program.

Section 15 authorizes the Administrator to reserve one percent of each State's allotment, or $100,000, whichever is greater, to be used to make grants to the States to carry out water quality management planning.

Section 16 directs the Administrator to allot to the State of New York from fiscal year 1982 funds an amount necessary to pay the cost of conveying sewage from the convention center of the city of New York to the Newtown sewage treatment plant in Brooklyn.

Section 17 authorizes $2.4 billion for each of fiscal years 1982, 1983, 1984 and 1985 for the construction grants program.

Section 18 amends the Federal Water Pollution Control Act to state the policy of Congress that grant-assisted projects shall be those which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the act.

Section 19 expresses the policy of Congress that a grant-assisted project shall be considered as an overall waste treatment system and shall be that system which constitutes the most economical and cost-effective combination of treatment works to meet the requirements of the act. It also provides that water efficiency measures and devices are to be considered along with all other alternatives in determining what overall system is most cost-effective.

Section 20 provides that where a State has been delegated sufficient authority to administer the construction grants program, the Governor may certify to the Administrator that a grant application meets all applicable requirements. The Administrator must approve such an application within 45 days or state the reasons for disapproval in writing.

Section 21 amends section 301(i) of the Federal Water Pollution Control Act to allow for an extension of the deadline for achievement of secondary treatment by municipalities, from July 1, 1983, to July 1, 1988. The provision also eliminates the requirement that all municipalities achieve best practicable waste treatment technology by July 1, 1983.

Section 22 amends section 301(h) of the Federal Water Pollution Control Act, which allows certain communities to treat their wastes to less than secondary levels if they are discharging through a deep ocean outfall pipe and certain stringent environmental requirements can be met. Section 22 deletes from existing law a restriction of eligibility to communities which already had ocean discharges on December 27, 1977. In addition, section 22 clarifies that eligible applicants include communities which have achieved secondary treatment capability. All communities proposing ocean discharges will have one year from the date of enactment to submit an application for a variance from the secondary treatment requirement. No such variance shall be granted for any discharge of sewage sludge into marine waters from outfalls. In addition, no variance made possible by these amendments may be granted sooner than one year after the date of enactment.

Section 23 amends the Federal Water Pollution Control Act to allow the use of biological treatment facilities such as oxidation ponds, lagoons, and ditches, and trickling filters, to satisfy the secondary treatment requirement if it can be proven that water quality will not be adversely affected by such methods.

Section 24 requires states to review, revise and adopt revised or new water quality standards within three years of the date of enactment. After three years, no grant will be made unless this effort has been completed and approved by the Administrator.

Section 25 directs the Administrator of the Environmental Protection Agency to submit to Congress not later than December 31, 1982, a new "needs survey" as specified in section 516(b) of the Federal Water Pollution Control Act, and reflecting the changes made by H.R. 4503.

Section 26 expresses the sense of Congress that judicial notice should be taken of this act, including the reduced authorization levels for the construction grants program, and that Federal consent decrees should be modified accordingly where required by equity.

Section 27 provides that the project for Bath Township, Mich., shall be eligible for grant assistance.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

I want to commend the gentleman and the ranking member for the great work that he has done.

At some later point in these proceedings, I would like to speak further. But at this point, one of the issues that has been involved in this legislation between the House and the other body has been the question of the allocation formula, and I wonder if the gentleman could just give a brief description of how that issue ended up between the House and the other body.

I think it is very important when we are talking about $2.4 billion to know just where that is going to be divided.

Mr. ROE. The gentleman from Georgia asked the question in view of the fact that the legislation is a $2.4 billion bill, authorizing per year, for the next 4 years, what was the final adjudication between the House and the Senate on the formula allocation of funds?

We took for the first year the existing formula in the existing legislation and accepted that year.

We took the average over the last 3 years of the Senate formula and the House formula.

We combined them together and divided by two, based on the year 1984.

It was a fair and equitable decision on balance, we felt.

Mr. ROEMER. Mr. Speaker, will the gentleman yield,

Mr. ROE. I yield to the gentleman from Louisiana.

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Speaker, I urge my colleagues to support the conference report on the municipal construction grants program. Both the Senate and the House came along way during the conference. The result is a compromise that I believe my colleagues from extremely urban areas can live with as readily as those from more rural areas like myself.

The House conferees insisted that there could be no reforms without flexibility. The program had to be tailored so that States would have the means to overcome their particular problems—which differ region by region but which block our national goal of clean water. While no one is completely happy with any compromise, in this case I believe basic fairness has prevailed.

I am also pleased that the House convincingly made the case to the Senate that infiltration-inflow correction is a small ticket item with big rewards. The House position prevailed because infiltration-inflow correction makes commonsense. It means a better program at a cheaper long-term cost to protect and conserve our Nation's clean water.

Two of the major problems plaguing this program—high cost and poor performance of treatment plants—have been traced to excessive infiltration inflow—which is extraneous clean water entering the sewer system. Specifically, the flow of clean water equals or exceeds the total waste flow at plants across the country. If unchecked, municipalities build plants that are too large and too expensive. In other cases, infiltration inflow causes the disruption of treatment processes, and this results in the bypassing of plants and the dumping of raw waste into our waterways. In addition, leaky sewer lines are a likely contributor to ground water contamination. However, correction of the infiltration-inflow problem has been found to be cost-effective, typically with a 6-to-1 benefit/cost ratio.

For these reasons, infiltration inflow control should be an important concern to grant recipients in the ongoing program, and should be part of the entire facility planning, design, and construction process. Municipalities should be expected to conduct infiltration inflow detection and make a commitment to solving this problem—not just temporarily but over the long haul. If this had been the case in the past, we might not now have this problem today.

In addition, there should be no question that this work taking place in step I and II is fully reimbursable at the Federal share in step III. And loans from any newly established revolving fund or any other advance funding mechanism selected by a State should be available for infiltration inflow detection. Furthermore, with the surety of a 4-year authorization, the States have the opportunity to develop multiyear strategies for solving their significant municipal sewage pollution problems. Based on the findings of the Congress this year, vigorous infiltration inflow control should be an integral element and high priority of any cost-effective municipal pollution control program.

Mr. Speaker, I would like to take this opportunity, if I may, to ask the distinguished chairman of the Subcommittee on Water Resources, who so ably led the House conferees, whether my statement accurately reflects the intent of the conference committee on the matter of infiltration-inflow control.

Mr. ROE. Mr. Speaker, if the gentleman will yield, I would like to assure him that his statement does reflect accurately the intent of the conference committee. The House persuaded the Senate conferees to accept the House position on this matter because infiltration-inflow correction has been found to be an integral element of a well run municipal construction grants program. It makes good engineering sense and should be part of the entire facility planning, design, and construction process. I would like to further point out that in the Statement of managers, under the Senate amendment to the section "Grants for Step 1 and 2," there is a specific statement, agreed to by the conferees, that the cost associated with infiltration inflow analysis and examination of the need for sewer rehabilitation will be eligible for reimbursement.

Mr. HAMMERSCHMIDT. Mr. Speaker, if the gentleman will yield, I would like to thank the gentleman from Louisiana for his statement on this aspect on the conference report and associate myself with the remarks of the distinguished chairman of the subcommittee.

Mr. ROE. Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in most strong support of the conference report on H.R. 4503. The House overwhelmingly passed its version several weeks ago by a recorded vote of 382 to 18, and I believe that this conference report deserves even stronger support here today.

I want to express my most profound appreciation to the chairman of the full committee, the distinguished gentleman from New Jersey (Mr. HOWARD), the distinguished ranking minority member (Mr. CLAUSEN), and my good friend, the chairman of the Subcommittee on Water Resources (Mr. ROE). They have provided tireless leadership during the long and arduous development and passage of H.R. 4503. All the conferees on both sides of the aisle are to be heartily commended for their active participation in crafting what will be a landmark in improving this valuable environmental program. Hearings, meetings, markups, and conferences were extensive and often extended into the late evenings. I am particularly proud of the many Members who continued working throughout these long sessions, even when faced with the press of so many other matters. The balance, equity, reform, and environmental benefits this legislation will bring about is a direct result of the commitment to excellence the Members made. The legislation before us provides many of the kinds of important changes which the administration has sought in the Federal funding of municipal sewage treatment works. At the same time, these changes are phased-in over several years and include the increased flexibility that the States and communities believe is essential. Passage of H.R. 4503 will permit continued funding this year and beyond to construct needed waste water treatment facilities throughout the Nation.

The waste water treatment program has provided one of the main methods of reaching our clean water goals and is part of one of the most important environmental laws of our Nation. Funding for the waste water treatment construction grants program has been authorized since 1972 at $5 billion per year. The administration has sought and the House and Senate have agreed to reduce this to $2.4 billion per year for a 4-year period. In addition, the types of projects that are eligible for funding will be limited as will reserve capacity for future growth.

The fundamental changes will take place beginning in 1984. Until that time, the program will proceed without significant disruption. There will be, of course, reduced overall Federal funding and no direct funding for step 1 planning and step 2 design projects. The result of the changes which the conference agreement makes is to significantly reduce the overall program size. When coupled with the reduced funding over the next several years, this will keep the program within the budgetary constraints that are currently needed.

I would like to comment on several of the provisions in the conference report.

Eligible categories, as I mentioned, will be limited after 1984. However, if approval for a step 3 grant is received prior to October 1, 1984, for an interceptor or treatment plant, then the rest of the eligible categories pertaining to that system will be grandfathered. For those categories which will not be eligible after 1984, such as collectors, the Governor will have discretion to use up to 20 percent of the State's allotted funds for such ineligible categories. The version that passed the House included a 30-percent discretionary amount, but I believe that the compromise at a 20-percent level will still provide sufficient flexibility for the use of these funds. The sufficiency of this discretionary amount will be studied as part of the new needs survey that the legislation directs.

After the date of enactment of this legislation, up-front grants for planning and design will no longer be made in this program. The local and State money expended for such planning and design will, however, be reimbursable upon receipt of a grant for step 3 construction. It would be expected, of course, that municipalities will continue to concentrate their planning and design efforts on meeting local water quality needs regardless of the amount of and eligibility for eventual Federal funding. It is also expected that communities will make the necessary efforts to adequately assess and reduce their flows to treatment plants as an essential part of their water quality program. The infiltration/inflow problems which have been shown to be a major problem in many areas will be eligible for funding throughout the program and it is expected that communities will do the necessary evaluation studies and design during steps 1 and 2 in order to correct infiltration/inflow problems with step 3 funds. Also, for small communities which may not have the financial resources to provide up-front funding of planning and design, States must advance out of their allotment funds for this purpose. These funds will be reimbursed, upon receipt of an approved step 3 construction grant for the relevant treatment works.

The Federal share will remain at 75 percent for all noninnovative/alternative grants until October 1, 1984. Where an interceptor or treatment plant is funded, in whole or part, for construction prior to that date, the Federal share will be grandfathered at 75 percent after October 1, 1984, for all subsequent interceptor and treatment plant grants that are part of the same system as the interceptor or treatment plant receiving pre-October 1, 1984, step 3 funding. The Federal share for projects not grandfathered, will be reduced to 55 percent, except for innovative/alternative projects.

The administration sought to restrict reserve capacity funding eligibility and would have allowed only 1980 flow levels to be federally funded. Because of the need for proper engineering and planning, especially in our growing communities, we have provided in this conference report that, until October 1, 1984, all categories including collectors, interceptors, and treatment plants will have the existing 20 year reserve capacity, and in some case up to 40 years reserve capacity. Grants for projects not grandfathered, that is, projects having no qualifying phased or segmented grants approved after October 1, 1984, will have reserve capacity limited to capacity existing at the date of such approval but in no case greater than capacity on October 1, 1990. The capacity of treatment plants eligible for Federal funding will include residential, commercial, and industrial users. The effect of this is to nullify industrial cost exclusion which the House has voted twice to repeal.

The allotment formula, which determines how much money each State will receive, will remain unchanged for fiscal year 1982 as the House bill had proposed. For the remaining 3 years of the bill, the allotment formula splits the difference between the existing formula and the third year of the Senate bill. This change will insure that, for each of the last 3 years covered by the bill, no State will lose more than 10 percent of the percentage of funds that they have been receiving since 1977.

Regarding the State certification provision, the conferees agreed to extend the approval period from 30 to 45 days. Other than that, the provision is the same as was contained in the House bill. It should be noted that this certification process applies to any grant which a Governor of an eligible State certifies. In other words, it applies not only to grants submitted after date of enactment but equally to those which are already pending before EPA. As soon as a Governor certifies that such a grant application meets all applicable requirements, the 45-day time period begins.

Many projects in the construction grants program are phased or segmented. Phased projects are conducted in the face of limited annual funding which requires several years of phased funding for completion. Segmenting of projects may result from limited funding availability or as a result of completing the design of portions of a total project system before other portions are completed. Several provisions of the conference report relate to grants made before October 1, 1984. These grants obviously are intended to include entire grants, phased grants, and segmented grants as the legislation and report clearly state. Decisions as to whether phasing or segmenting is appropriate in any project are to be the purview of the States and municipalities, using the same historical guidelines that have characterized implementation of the construction grants program over the course of the past few years exclusive, of course, of any outright prohibitions against making phased or segmented grants.

The water quality management planning provision is very similar to the House version. It provides that the States must use 1 percent of their allotted funds or $100,000, whichever is greater, to carry out water quality management planning and to concentrate these efforts through local, regional, and interstate entities. It is obvious that this becomes primarily a State and local aspect of the total program and, as such, Federal EPA should minimize any regulations and management related to this provision. The primary regulatory and management responsibilities will be with the States.

The planning under this provision includes the identification of the origin and extent of water pollution problems in various areas of a State, determination of the most cost-effective measures for treatment works and control of nonpoint sources, and development of implementation plans. Eligible activities would include determinations as to which treatment works should be built with grant assistance, where and when, with regard for the relative degree of effluent cleanup achieved and the relative extent to which water quality problems stem from point and nonpoint sources. Also eligible for assistance from funds provided is implementation of section 303(e) of the act, calling for the development of river basin water quality management plans.

This provision reflects a concern that reductions in the level of grant funds available to the construction grants program makes it imperative that sound planning underlie decisions with respect to expenditures on projects. Priority for such planning is to be given by the States to designated areawide waste treatment management planning entities, which have already been involved in the process, and other comprehensive planning organizations capable of conducting this activity.

The conference report contains a package of provisions intended to assure selection of the most cost-effective combination of elements of a waste water treatment system in the development of projects.

First, the conference report declares it to be the policy of Congress that projects for waste treatment should constitute the most cost-effective system in terms of the ability to meet the requirements of the act, including the requirement that water conservation measures and devices be given adequate consideration.

Second, the report implements this policy by requiring that the Administrator, before approving any application for construction funds for a treatment works, must determine that the proposed project meets the cost-effectiveness test.

These provisions recognize that waste water treatment facilities can consist of a large number of alternative means for the collection, conveyance, storage and treatment of municipal waste water, and the disposal of residues resulting from the treatment process. It is intended to assure that the combination of elements result in the most cost-effective system over the life of the project, with due regard for operation, maintenance, and replacement costs as well as initial capital costs.

The intent of this provision is to assure that the maximum pollution abatement result from the expenditure of increasingly limited funds available for the program.

The conference report authorizes $2.4 billion for the construction grants program for each of the fiscal years 1982, 1983, 1984, and 1985. This level, while far below the $5 billion-a-year authorizations of the early years of the program, nonetheless continues authorizations for this important program at a time when reductions must be made Government wide in the overriding interest of asserting control over Federal spending.

This figure is consistent with the level supported by the administration for fiscal year 1982, assuming the enactment of program reforms. In addition, the authorization of funding for a full 4 years provides much needed continuity and predictability in a program characterized by long leadtime in planning and construction of projects. Funding of the program for fiscal year 1982 and beyond will assure that the Congress maintains a commitment to grant applicants working in good faith to comply with the requirements imposed on them by the Clean Water Act. Failure to provide such funding would result in a debilitating loss both of momentum and confidence in a program which has begun to show encouraging results.

The conference report also contains a provision intended to remove an inequity to which one particular community has been subjected through a combination of court action and the lack of availability of funds. Bath Township, in Michigan, was forced to proceed with construction of a project by court order at a time when funds were impounded. Had it not been for this fact and the timing, the community would have been eligible for 75 percent Federal funding of its project. This legislation therefore provides that the community shall be eligible for payment from the State's allotment in the same manner as if it had been constructed under the program.

This legislation also provides a useful device to encourage communities receiving assistance under the construction grants program to confront the reality of their long-term capital needs for construction and reconstruction of facilities. The construction grants program is not now, nor has it ever been intended to be, an entitlement program, much less one which will continue in perpertuity. We in the Congress are rightly concerned over explicit or implied long-term commitments or assertion of Federal responsibility, be they legal, moral, or political in nature. There must be greater awareness of this fact on the part of communities operating publicly owned treatment works. Therefore, the conference report contains a provision to encourage, well in advance of actual need, applicants to plan now for the time when their facilities will be inadequate for any reason such as physical deterioration, or the need to expand to accommodate future growth. This provison authorizes technical and other assistance by EPA to such communities, in determining what their needs will be, when they will occur, what the cost will be, and what steps must be taken to assure the needed funding to finance them when the need arises.

One of the sources of delay plaguing administration of the construction grants program has been the fact that the application process has been segmented into three steps: facility planning, engineering design, and construction. Despite that fact, there has been merit in handling the three steps as separate grant applications. There also has been merit, in the case of smaller projects, in combining steps 2 and 3 in the interests of reducing delays. Existing law imposes a limit of $4 million on projects eligible for such streamlined treatment, and of $5 million in the case of projects in high-cost areas. The conference report amends existing law by raising the dollar ceiling on projects in all areas eligible for combined step 2-3 funding to $8 million.

This legislation extends to July 1, 1988, from July 1, 1983, the authority of the Administrator to provide case-by-case extensions of the deadline for compliance by communities with the requirement to provide secondary treatment of their waste water.

This is an important amendment, a realistic one; and it is necessary if this program is to maintain any credibility and avoid being run by the courts rather than the Agency.

In 1972, the Water Pollution Control Act amendments set forth an ambitious package of requirements to be met by both municipalities and industry, coupled with a massive commitment of Federal financial assistance in the case of the former. We have made progress, but not as much as initially contemplated because of a number of reasons, including the true magnitude of the task, the manner of EPA's administration of the program, and the availability of funding. This we recognized in 1977, when we extended the outside date for municipal compliance to 1983. And we in the House attempted in the 1980 amendments to extend it further until 1985. That latter amendment was never enacted into law. The same recognition of reality now agrues for the 1988 date, and I am pleased to find that the other body now shares this view. Nothing in this provision is intended to suggest that a community's obligation to comply with the law is contingent upon the availability of Federal grant assistance. However, in rough terms of equity, when scaling back the amount of funding available, it is appropriate to adjust the overall schedule of the program.

The conference report also contains a provision intended to overcome continuing resistance on the part of grantees and their consultants to innovation in wastewater treatment technology. Recent hearings have demonstrated that this resistance indeed persists and is a deterrent to acceptance of processes and components which might prove cheaper to build and operate, more reliable, more energy-efficient, and which would foster recycling, reuse, and reclamation of resources, including water. This resistance stems from the concern over embarrassment, political in the case of the community and professional in the case of the design engineer, if the plant or process fails to work as intended. Much of this concern stems, in turn, from the fact that many promising innovations have had the benefit only of laboratory simulation or limited field testing. An additional increment of verification with respect to performance capability—under the circumstances of its proposed use—is necessary to overcome an understandable tendency to adhere to the tried-and-true. Therefore, the conference report contains a provision making grant-eligible the field testing of promising processes, components, and techniques under step 1 (facility planning) and step 2 (design engineering). It does so by broadening the definition of construction to include such purposes.

A number of communities in this country, for reasons which may or may not be of their own making, are under Federal consent decrees requiring them to proceed with construction of waste water treatment facilities in compliance with specified schedules. In some cases, these consent agreements have been entered into in the expectation that Federal funds for the program will be available in the requisite amounts. However, there is no direct correlation in the law between the availability of funds and the obligation of a community to comply with its requirements. Necessary decreases in the amount of Federal assistance available under this program may create a problem of equity in some situations. Therefore, while the Congress is reluctant at this time to inject itself by statute into situations covered by consent decrees, the conference report contains a provision stating it to be the sense of Congress that judicial notice should be taken of the amendments to the Federal Water Pollution Control Act and other provisions contained in this legislation. Parties to consent decrees are encouraged to reexamine the provisions of such decrees and make adjustments as appropriate in the interests of equity.

This legislation makes a number of changes with respect to the eligibility of various types or categories of projects for funding under the construction grants programs. These modifications have been undertaken in recognition of a need to reduce the Federal commitment under this program over the years ahead. It is important, however, that the Congress be kept up to date with respect to needs in all categories for which any amount of funding continues to be available under the act. Therefore, the conference report requires the Environmental Protection Agency to submit to the Congress, not later than December 30, 1982, a new report on the cost of meeting the requirements of the act as amended by this legislation. Because of the 20-percent discretionary amount available after October 1, 1984, this and subsequent needs surveys shall contain the needs for collectors, sewer rehabilitation, and any other category which may not otherwise have direct eligibility for Federal funding. The needs survey is to represent the total needs to meet the requirements of the act, whether such needs are funded by the local, State, or Federal Government.

Also in this legislation is a provision to deal with a temporary problem of wastes generated by the convention center of the city of New York. Since that plant which ultimately will serve the convention center has not been completed, this legislation authorizes the allotment to the State of New York of fiscal year 1982 funds in an amount sufficient to pay the cost of conveying sewage from the center to the Newtown Sewage Treatment Plant in the Brooklyn-Queens area. This provision was also contained in an earlier bill which passed the House on May 28 of this year.

The conference report makes a most constructive change in the provision of law dealing with procurement of equipment for waste water treatment projects by grantees. Existing law provides that when the design engineer wishes to name a piece of equipment by brand in his specifications, he must specify two brand names or the equivalent thereto. There is no particular problem in the "or equal" requirement, which is intended to foster competition in the wastewater treatment industry. But there is a serious problem with the requirement that two brand names, rather than one, be specified. This has resulted in a disincentive to manufacturers to invest in the development of truly superior equipment for which there may in fact be no equal. Also, it tends to dilute the responsibility of the design engineer and the client grantee for the proper functioning of the treatment works by removing one key area of professional judgment and discretion. To address this problem, the conference report provides that, in the specification of brand name, trademark or other proprietary equipment, the naming of only one such item, plus the "or equal" caveat, will be sufficient.

One of the most constructive clean water amendments enacted in 1977 was State certification, also known as State management assistance, contained in section 205(g) of the act. It provided incentive for EPA to delegate the authority and responsibility for management of the construction grants program to qualifying States. And it authorized a modest set-aside of construction grant funds to be used by the so-called delegated States for this purpose. This has been a successsful initiative, and extensive hearings by the committee have established that the efficient administration of the program will require far more reliance on State delegation in the future. It is also true that the delegation process has not been without its problems, and many of those problems have stemmed from the instability of the funding source provided. This conference report provides that, for the purposes of carrying out delegated management responsibilities, States may use up to 4 percent of their respective shares of amounts authorized annually for the construction grants program. This will mean that, despite declining authorizations and appropriations, States can rely on a stable source of funding for this important function, upon which the effective management of billions of dollars in construction grant funds so heavily depends.

This legislation also amends the act to declare it to be the policy of Congress that projects undertaken with Federal assistance for wastewater treatment and management shall be those which are designed to achieve optimum water qualtity management, consistent with the public health and water quality goals and requirements of the act. The rationale for this policy is a recognition that the ultimate justification for projects lies in the objectives of the act, which are the restoration and maintenance of the physical, chemical, and biological integrity of the Nation's waters. At the same time, the Congress has proclaimed it to be the national policy that the primary rights and responsibilities of the States in water pollution control be preserved. Therefore, this provision clearly specifies that any and all determinations with respect to a project's conformity with the policy objectives stated above be "in the estimation of the State." Thus, it is intended that determinations in the selection of projects and the priority accorded to them under this policy lie solely within the discretion of the State. This provision cannot be used by the Federal EPA to force certain priority categories, projects, and so forth, by regulation, rule, or policy. States are to give priority to projects in the way each State determines.

The many safeguards which the House bill contained, especially for small communities, remain, and are, in fact, strengthened. The valuable innovative and alternative program is expanded and the rural set-aside program is continued unchanged. These and other provisions insure that small and rural communities will continue to receive equitable treatment as we work toward our national goals of water quality.

In summary, Mr. Speaker, I strongly support this conference report and urge my colleagues here to join me in doing so.

Mr. **JEFFRIES**. Mr. Speaker, will the gentleman yield?

Mr. **HAMMERSCHMIDT**. I yield to the gentleman from Kansas.

(Mr. **JEFFRIES** asked and was given permission to revise and extend his remarks.)

Mr. **JEFFRIES**. Mr. Speaker, I would like to engage the gentleman from New Jersey, the chairman of the Subcommittee on Waters and Resources in a colloquy.

As the gentleman knows, we in Kansas had a problem regarding some $4 million in municipal sewage grant funds which were lost to our State through an accounting error by EPA. Twice this year the entire Kansas delegation wrote the OMB to point out this error.

I would like at this time to insert copies of this correspondence in the RECORD.

My question is whether there is anything in this authorization for the Federal water pollution control program which would bar a remedial appropriation for Kansas.

We would like to restore the fund most likely through the supplemental appropriations which will be necessary to fund the authorization now being considered.

Again, these moneys were properly due Kansas and were lost simply through an untimely accounting error by the EPA.

The letters follow:

U.S. SENATE,
*Washington, D.C., July 7, 1981.*

Hon. DAVID STOCKMAN
*Director, Office of Management and Budget,*
*Executive Office Building, Washington, D.C.*

DEAR MR. STOCKMAN: We want to thank you for your letter of May 26, 1981, regarding the Region VII accounts for municipal sewerage grants in the State of Kansas. Our inquiry of March 27, 1981, alleged that the EPA Regional Office (Region VII—Kansas City) had improperly charged grants to 1980 and 1981 fiscal year funds, resulting in the recission loss to Kansas of almost $4 million in Talmadge/Nunn funds. We have discussed your response with representatives of the Kansas Department of Health and Environment.

Apparently EPA has either provided you with an incorrect analysis of the problem which existed in their Regional Office or they did not understand the issue which was being raised. The issue related to accounting practices of the Regional Office months before the recission and does not relate to projects which were in the Regional Office for processing at the time of the recission.

We are informed that Kansas agreed with the Regional Office on April 15, 1980, that all projects awarded after that date were to be charged first against Talmadge/Nunn funds and that charges were to be made against FY 1980 and 1981 funds only after the Talmadge/Nunn funds had been exhausted. The Kansas Department of Health and Environment, with the concurrence of the EPA Regional Office, adopted this position to assure that they would be fully qualified in the event that the "two-tier funding amendment" then under consideration would become law. At the time of recission, Kansas officials learned that projects had been charged against the fiscal year rather than Talmadge/Nunn funds.

You have apparently been misinformed by the Environmental Protection Agency on the amount of funds that would remain available to Kansas after recission. The value of the projects in the Regional Office, one of which had been at the EPA office for at least a year, more than equaled the funds remaining after recission. Funds available to the state are now essentially exhausted and the grants program has been suspended indefinitely.

We will greatly appreciate your assistance in further investigation of the accounting error in the hope that approximately $4 million in Talmadge/Nunn funds can be restored for use by Kansas municipalities. A representative of the Kansas Department of Health and Environment would be pleased to meet with a representative of your office and/or the Environmental Protection Agency.

Sincerely yours,

NANCY KASSEBAUM,
*U.S. Senate.*
JIM JEFFRIES,
*Member of Congress.*
LARRY WINN,
*Member of Congress.*
PAT ROBERTS,
*Member of Congress.*
BOB DOLE,
*U.S. Senate.*
BOB WHITTAKER,
*Member of Congress.*
DAN GLICKMAN,
*Member of Congress.*

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EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D.C., October 29, 1981.*

Hon. JAMES JEFFRIES,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR JIM: Thank you for your letter of July 7, 1981, regarding the status of municipal sewage treatment grant funds in the State of Kansas.

I can certainly appreciate your continued concern over the loss of $4 million in Talmadge-Nunn funds. As a result, I have carefully reviewed your letter and consulted with the Environmental Protection Agency concerning the facts of the sequence of events surrounding the rescission of these funds. I find the facts as you present them to be essentially correct. Unfortunately, there is little I can do to rectify this error. Since the rescission for this program has already been enacted into law, the affected funds cannot be replaced through an administrative action.

The State of Kansas had received a cumulative total of $244 million in allotments under the Construction Grants program. It is true the State had planned to obligate most, if not all of its remaining Talmadge/Nunn funds in the first part of FY 1981. As of December 1980, the State's unobligated balance in this account was $13.2 million, only $0.7 million less than the original allotment received in 1976.

Between December 1980 and March 1981, EPA's Region VII Office in Kansas City charged $9.3 million of obligations for Kansas to this account, which is more than 70 percent of the December 1980 balance. An error did occur in the EPA office and some obligations intended to be charged against Talmadge/Nunn funds were charged to other appropriations. By the time the error was discovered, the remaining Talmadge/Nunn funds were "frozen" by the Administration's proposal for a rescission of $1.7 billion. Once funds are frozen by a proposed rescission, the Agency cannot adjust or obligate funds against the affected accounts since this would result in losses for all other States to account for the change in Kansas. So, while the error occurred in December, it was not discovered by either EPA or Kansas until three months later, after the account had been frozen, pending the enactment of the rescission.

I realize that this response does not answer your concerns favorably and want to apologize for the error in the Kansas Municipal Wastewater Treatment account. The only remedy would be a specifically earmarked appropriation for Kansas that would make up the loss. Once again, thank you for your letter.

Sincerely,

DAVID A. STOCKMAN,
*Director.*

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U.S. SENATE
*Washington, D.C. March 27, 1981.*

Hon. DAVID STOCKMAN,
*Director, Office of Management and Budget,*
*Executive Office Building, Washington, D.C.*

DEAR MR. STOCKMAN: The Kansas Department of Health and Environment has called our attention to a problem which stems from the recission of P.L. 94-369 funds. These funds were originally intended for the construction of sewerage works.

Kansas had programmed the flow of construction grants to obligate these funds by the end of calendar year 1980. The Regional Office (Region VII) of EPA was informed by the Kansas Department of Health and Environment that it was the Department's desire and intent that projects be charged against the P.L. 94-369 funds.

At the time of recission, the Department learned that projects had not, in fact, been properly charged and that a balance of $3,965,426 remained in the Kansas account. We are informed that Region VII advised Kansas that this was a "GS-4 clerical error and that nothing can be done."

We find it difficult to believe that an error of this nature cannot be easily rectified. We would greatly appreciate your investigating this problem and correcting the Regional accounts. Kansas does understand that this will have the effect of increasing the amount of FFY-80 and/or FFY-81 recission.

We also understand that Kansas communities are greatly supportive of the efforts to streamline the grant program provided there is a concurrent simplification of applicable regulations. Kansas does intend to testify when hearings are held on recission of the Water Pollution Control Act.

Sincerely yours,

Bob Dole.
Larry Winn, Jr.
Jim Jeffries.
Dan Glickman.
Nancy Kassebaum.
Bob Whittaker.
Pat Roberts.

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Mr. ROE. Mr. Speaker, will the gentleman yield for a response to his question?

Mr. HAMMERSCHMIDT. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, in response to the question, there is nothing in the conference report on H.R. 4503 that would bar a remedial appropriation for Kansas.

Furthermore, I assure the gentleman, my friend and colleague on the Committee on Public Works, that we will be supportive of the State of Kansas in their effort to restore the funds, which virtually everyone admits were improperly lost to the State.

Mr. JEFFRIES. Mr. Speaker, I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Goldwater), a very distinguished member of our committee.

(Mr. GOLDWATER asked and was given permission to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Speaker, I rise in strong support of the conference report on H.R. 4503, the Municipal Wastewater Treatment Construction Grant Amendments of 1981, and comend it to my colleagues as a measure deserving adoption by an overwhelming vote and prompt signature by the President.

H.R. 4503, as reported by the Committee on Public Works and Transportation, was a sound piece of legislation, as I indicated in my comments on the occasion of its passage by the House on October 27. Now I would observe, on the basis of my work as ranking minority member of the Subcommittee on Investigations and Review, that the conference report contains a number of improvements.

This is absolutely no reflection on the work of the Water Resources Subcommittee or the full committee. It reflects, instead, the fact that the conference took up some issues which the House side had originally regarded as best deferred until next year. This was in the overriding interest of passing out an authorization bill to serve as the basis for a fiscal year 1982 appropriation for the construction grants program.

Indeed, the majority and minority leadership of both the subcommittee and full committee are to be commended for their contributions to this legislation, as are all of the House conferees for their able assertion of the House position in negotiations with the Senate.

During the 1st session of the 97th Congress, the Public Works Investigating Subcommittee has conducted the most comprehensive investigation every undertaken into the performance of the wastewater treatment works constructed with Federal Assistance under the Clean Water Act.

A subcommittee report now being issued lends strong support to many of the provisions of the measure now before us, including changes resulting from the conference deliberations:

### MULTIYEAR FUNDING

Our hearings over a number of years have demonstrated that many of the ills plaguing the program can rightly be attributed to a lack of continuity, stability, and predictability. The 4-year authorization is most appropriate in this regard.

### REDUCED FEDERAL SHARE

We concluded that, in addition to the need for this program to share in overall reductions in Federal spending, that a reduction of the Federal share to 55 percent from 75 percent—over an adequate transition period—should result in selection of less costly and more reliable treatment processes, and improved operation and maintenance by grantees.

### MUNICIPAL COMPLIANCE DEADLINES

There is universal recognition that municipalities cannot meet the secondary treatment deadline of 1983 now in the law, what with reduced funding in recent years and other factors delaying initiation of projects. The shift of the outside deadline for compliance to 1988 from 1983 is absolutely critical. Members who recall the unsuccessful attempt by the House to make some adjustment in last year's amendments will applaud the Senate's new receptivity to reality.

### SECONDARY TREATMENT REQUIREMENTS

Many problems of cost, overdesign, and construction of treatment plants that are difficult to operate justify the conference report's authorization of less sophisticated treatment technologies such as oxidation ponds, lagoons, and ditches, and trickling filters, provided no harm to water quality results.

### ELIGIBLE CATEGORIES

Retention of grant eligibility for projects to eliminate excessive overloading of sewer systems by storm water will make it possible to continue repair projects that protect the functioning of treatment works and avoid the need for additional plant capacity.

I particularly want to express my appreciation to the House conferees for essentially preserving the House position on the granting of waivers from secondary treatment requirements to coastal communities discharging treated wastes into marine waters under strict environmental safeguards.

It also is gratifying that the conference retained my provision to make grant eligible the field testing of innovative and alternative processes and equipment where necessary to promote acceptance of promising developments.

Also of merit in the conference report are provisions to modify procurement requirements affecting wastewater treatment equipment, sustain a strong State role in management of the construction grants program, and further strengthen incentives for development of innovative and alternative technology.

Specific provisions aside, I just want to say a word about the approach to the changes in this bill, whether related to Federal share or categories of project eligibility. The word is gradual. There is a phased-in transition provided that should make it much easier for localities to adjust to these changes in the law.

Recently our subcommittee held a hearing in Austin, Tex., on the practical implications of a number of proposed changes in the act. And if any message came through loud and clear it was that the municipalities subject to the law's requirements need time to adjust to changes. I am encouraged to believe that the phasing in of this legislation, plus the easing of compliance deadlines, should go far in helping them do so.

To be sure, there are many areas of the act—including the construction grants program in title II—that will need further attention in the next session of the 97th Congress. With respect to the construction grants program alone, our subcommittee has proposed a number of changes which have yet to be put forth in legislative form. They include:

Consideration of alternative sources of funding.

Additional measures to increase the responsibility of grantees, such as withholding of a grant until the applicant operates any existing facilities with maximum efficiency, and withholding 20 percent of grant funding until a new facility performs as intended.

A strengthened role for the Environmental Protection Agency's Office of Inspector General in rooting out waste, fraud, and abuse.

Clearer and tighter lines of responsibility and accountability in the performance of design engineers, through such approaches as turnkey projects and reduced Federal interference in the design of facilities.

As I said, many of our oversight recommendations have yet to be formally offered on the assumption that the entire act will be reviewed again next year. But the extent to which our findings parallel the position taken by the conferees on the issues we both addressed suggests that our remaining recommendations—and earlier ones arising from our examination of the regulation of toxic pollutants—should find a receptive audience.

Meanwhile, I urge adoption of the conference report.

Mr. HAMMERSCHMIDT. Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, I certainly appreciate the distinguished subcommittee chairman yielding at this point.

Mr. Speaker, I would like to ask the distinguished chairman of the Subcommittee on Water Resources (Mr. ROE) a question with regard to the construction grants program.

In my district the four communities of Rocky River, Bay Village, Fairview Park, and Westlake built a sewage treatment plant with EPA guidance. However, when this "pilot program" plant was completed, it turned out that it did not operate properly. The plant when finally completed with design modifications will serve about 80,000 residents. The attempts on the part of local communities to receive reimbursement from EPA go back many years. They have been unsuccessful because of EPA's contention that the project, since it involved experimental technology, is not a "normal" construction grant project. I ask the gentleman's opinion as to whether or not this project is qualified for reimbursement under the act.

Mr. ROE. Mr. Speaker, in response to the gentleman's inquiry, in my opinion the local communities are entitled to reimbursement. We have included language in the statement of managers urging the appropriation of funds to implement section 206 which provides for reimbursement of local interests when they perform work with their own money in accordance with requirements of the act. The project which the gentleman mentions is certainly the type of project which should be eligible upon the appropriation of funds, and we shall certainly do all we can on behalf of the State of Ohio.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MOTTL. Yes, I yield to the distinguished gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to associate myself with the remarks of our distinguished chairman in support of his response to the question of the gentleman from Ohio.

Mr. MOTTL. I thank the distinguished subcommittee chairman, also the full committee chairman, the gentleman from New Jersey (Mr. HOWARD), also the gentleman from Arkansas (Mr. HAMMERSCHMIDT), and the gentleman from California (Mr. CLAUSEN) for their cooperation.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. ANDERSON), a member of the committee.

Mr. ANDERSON. Mr. Speaker, I rise in support of the conference report on H.R. 4503, the Municipal Wastewater Treatment Construction Grant Amendments of 1981. I also wish to commend subcommittee chairman ROBERT ROE and ranking member JOHN PAUL HAMMERSCHMIDT for a job well done.

One of the provisions in the conference report on H.R. 4503 is of particular interest to me. This is section 4 which provides that the Administrator of EPA shall make a grant, from any funds otherwise allotted to the State of California, to the city of San Diego in connection with that city's aquaculture sewage process.

Nearly 100 percent of San Diego's water is imported. The high cost of this water together with the diminishing supply of ground and river water led San Diego to the planning of a wastewater-to-potable water recycle system. This system which will use vascular plants and reverse osmosis technology will result in the production not only of treated sewage effluent but of potable water. The production of potable water will not only help meet the water supply needs of the region but will result in a more economical system.

This type of innovative and alternative technology is important not only to San Diego but to other communities throughout the Nation which are facing water supply problems. The encouragement of this type of project is directly in the national interest. It represents the type of innovative and alternative technology which must be pursued so that we may truly achieve the optimum yield from our finite water resources.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. PANETTA).

(Mr. PANETTA asked and was given permission to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I, too, rise in support of this legislation. I think it is extremely important to maintain our commitments that have been made over the years in this area. With regard to that, I would like to speak to one particular project.

The agricultural irrigation demonstration project in Castroville, Calif., is unique. It is the only program in the United States utilizing secondary treated municipal waste water for commercial crop irrigation. The benefits of this program are twofold. It reduces the demand on precious limited water resources and by reducing the overdraft of the local ground water supply helps to combat the increasing threat of salt water intrusion into the agricultural producing areas along Monterey Bay.

Earlier this year some questions were raised over the use of construction grant funds for the agricultural irrigation demonstration project. Clearly use of these funds for water reclamation and reuse purposes serves the objectives and intent of Congress in creating the construction grants program. To prohibit further assistance for this project would be a tragic step backward from our national commitment to the innovative and creative conservation of our precious water resources.

The agricultural irrigation demonstration project serves to demonstrate that a lesser level of treatment than that which may be provided by a Monterey regional wastewater treatment plant, provides acceptable public health protection. It also demonstrates to local farmers and local public health officials that reclamation does not adversely affect crops or soils in the project area. Finally, the program demonstrates that crops so irrigated are marketable and acceptable to the public.

I would like to briefly review for you the project's progress over these past few years. In March of 1978 a 2-year study was completed in which the concept of the demonstration project was examined, a work plan developed, a site selected, and conceptual designs and environmental assessments completed. Between 1978 and 1980 design and construction of the Castroville treatment plant and irrigation systems and preparation of specifications for and purchase of necessary equipment was completed. The operational stage of the project has arrived during which treated wastewater is being used to irrigate crops under controlled circumstances to monitor and measure the effects. After less than 1 year of this highly successful stage of the project, its continued eligibility for funding has been drawn into question.

Mr. Speaker, I understand that section 8(d) of H.R. 4503 amends section 212(1) of the Federal Water Pollution Control Act to provide that field testing of innovative or alternative wastewater treatment processes and techniques shall be eligible for grant assistance under title 2 of the act. The agricultural irrigation demonstration program which I have just described would appear to be just the sort of thing intended to be covered by section 8(d), and I would appreciate your comments on this.

Mr. ROE. The gentleman is quite correct. The demonstration project he describes is indeed the type of project intended to be covered by section 8(d). The purpose of the provision in the bill is to provide grant assistance for the practical testing of innovative or alternative treatment procedures such as the use of treated water for irrigation, so that their effectiveness can be determined under carefully monitored conditions before widespread application is undertaken.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, for purposes of making legislative history, I just want to state that on behalf of the minority we concur in the statements that have been made in this colloquy. The gentleman from California has discussed it with me extensively.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. PANETTA) has expired.

Mr. ROE. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. PANETTA).

Mr. CLAUSEN. Mr. Speaker, if the gentleman will yield further, the gentleman has discussed this matter with me extensively and I wish to state that on behalf of the minority we concur in the statements made in this colloquy.

Mr. PANETTA. Mr. Speaker, I want to thank the chairman and the gentleman from California, both of whom have been extremely helpful here. As I said, I think it is very important that commitments that are made to projects like this are maintained and I think this legislation helps do that. I thank both these gentlemen.

Mr. ROE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. BOLAND).

(Mr. BOLAND asked and was given permission to revise and extend his remarks.)

Mr. BOLAND. Mr. Speaker, first of all, I want to commend the distinguished gentleman from New Jersey and the conferees for the magnificent job they have done under very difficult circumstances on this particular conference.

I would like to clarify a certain section of the conference report. Section 5 provides that beginning in fiscal year 1983 the Administrator shall have available $200 million in addition to the funds authorized in section 207. So there are $200 million in 1983, 1984, and 1985, or $600 million in addition to the $2.4 billion authorized for each year, 1982 through 1985, under section 207.

The reason for this separate provision, as I understand it, is to correct combined sewer overflows into marine bays and estuaries. I have no objection to it. But the wording of the section is somewhat vague.

Is it the understanding of the gentleman from New Jersey (Mr. ROE) that this section is strictly an authorization for appropriations?

Mr. ROE. Yes, absolutely.

Mr. BOLAND. So the gentleman does agree that no funds will be provided for CSO improvement in marine bays and estuaries unless made available in appropriation acts.

Mr. ROE. The gentleman is absolutely correct.

Mr. BOLAND. I thank the gentleman.

There is one more issue on which I would like to express some concern.

I want to comment briefly on another section of the conference report. And that is section 4, which adds a new subsection (m) to section 201 of the Federal Water Pollution Control Act. Paragraphs 2 and 3 of section 4 require the Administrator to make grants for certain projects. I am not going to address the merits of the projects. They may both be excellent and may be very high priority projects. But I would hope those projects can stand on their own merit.

In my judgment, Mr. Chairman and Mr. Speaker, I think the Congress will be doing a great disservice to itself and to cleaning up the Nation's water pollution problems if it makes a habit of earmarking grants under the Environmental Protection Agency's construction grants program.

As everyone familiar with the waste water treatment program knows, historically the States have established project priorites under broad guidelines established by the Congress and regulations issued by the EPA. This system has not been without problems, but it has basically worked very well.

The Congress should not be in the business of establishing individual project priorities. That is exactly what the Congress is doing in this instance. Priorities established by Congress may bear no resemblance to those established by the States based on water quality requirements.

Let us keep the emphasis on the construction grants program in cleaning up the environment. Let us set the broad goals in the Congress. The States should continue to establish individual project priorities.

Mr. DICKS. Will the gentleman yield?

Mr. BOLAND. I would be glad to yield to the gentleman from Washington.

Mr. DICKS. The gentleman from Massachusetts serves as the chairman of the HUD-Independent Agencies Appropriations Subcommittee. I want to commend the committee first of all for having enacted this legislation. But I am very concerned about the fact that in the fiscal year 1982 appropriations bill there are zero dollars for the very important sewage construction treatment plant program.

I would like to ask the chairman of the subcommittee if it is his intention to try to bring out a supplemental appropriations bill early next year to take care of this matter.

Mr. BOLAND. I appreciate the gentleman's position and also the great interest he has shown in the construction grants program ever since he has joined the Congress. I commend him for it.

Let me say categorically that when we come back in January it is my intention to hold hearings at the first opportunity in the HUD-Independent Agencies Appropriations Subcommittee on 1982 funding for the construction grants program. Whether or not we get a budget request for the $2.4 billion, I will work make money available for this program early in the next session by way of an urgent supplemental appropriation measure.

Mr. DICKS. I commend my chairman. He has done a great job in this area. Our States are very much interested in his leadership on this issue.

Mr. ROE. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation, the gentleman from Georgia, Mr. LEVITAS.

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I rise in support of this legislation and commend the chairman of the subcommittee and ranking member of the subcommittee for the outstanding work they did in putting together the bill that originally passed the House and this conference report. It has been a real example of cooperation between a legislative committee and oversight committee, because this bill incorporates substantially all of the recommendations which our oversight committee of the Public Works and Transportation Committee has made following a very and thorough comprehensive review of the entire construction grants program during the last year.

The water pollution control program is a program that is so vital to the quality of life in this country and to the economy of this Nation that it could not be left to founder because it was not working well. That is the reason an oversight review was vital and the need for the types of reforms and changes in the program which this conference report reflects I think will go a long way to carrying out the types of reforms which our oversight committee has recommended. The two subcommittees worked closely, both among the members and the two staffs, in seeing this reform come about.

There are some additional administrative improvements that need to be made and we will continue our oversight of the Environmental Protection Agency to see that improved management in these operations is going to be seen.

But I think we have got to focus on both the quality of life and the economic impact of this program. Clean water is essential to a good and a full and a healthy life. It is also essential to our economy.

In a recent hearing we had in Austin, Tex., witnesses came in and talked about the public health problems related to the need for this program. When interceptor sewers in those communities would rupture and raw sewage would be flowing over school yards and into lawns, creating all manner of health problems. One such community was Port Arthur, Tex., if I remember correctly.

Then we had testimony about what the cost would be to the citizens of Texas and of this country in terms of failure to have economic growth potential and increased public utility rates to users.

I will never forget the mayor of Austin, Tex., just 2 or 3 weeks ago testifying that in the absence of this program going foward and if these funds were lost and not reauthorized and appropriated, Mayor Carole McClellan said:

> To replace those Federal funds we would be looking at tripling of the water rates. And I can assure you that our public would feel tremendously misled and angry and somewhat frustrated.

The councilman from San Antonio, Tex., said that their rates would go up 60 percent. And the Chamber of Commerce of North Channel, of Houston, Tex., said that economic development is at a standstill if they cannot get the funds to clean up their waste water problems.

According to Port Arthur's director of public services, the cost to his city would be $39 million and that would be comparable in Port Arthur to the $1 trillion national debt that the Federal Government has.

The city of Houston is looking at perhaps a $1 billion cost in the next 8 years to come.

The impact of shifting more of the costs to the city of Houston would be monumental. Advised Martin J. Manning of the Houston Public Works Department:

> Certainly revisions proposed to the Clean Water Act will shift a substantial financial

burden to the city, there can't be any question about it. The resulting impacts on the city are going to be substantial. *If all the funding changes occur, the projected level of EPA support in our overall program is going to be reduced from about 42 percent of the overall program to about 7 percent in an overall program that is estimated to cost around $1 billion* on an inflated basis over the next 8 to 10 years. (Emphasis added.)

This program is absolutely vital. It protects public health, it improves our total quality of life by providing fishable and swimmable waters and without this program the new jobs that you talk about with new plants and new industrial parks or new shopping centers or residential subdivisions would come to a standstill.

So we are discussing an extremely important program, one that now has seen some important reforms legislated in this bill and in the future additional reforms will be addressed to make this program even more efficient and effective.

Congress will be closely watching this program in the months and years to come. And it is the type of legislation which is illustrative of some of the finest hours and finest moments that this body does as a legislative body for the people of America expressing concern for our Nation's interests and needs and working cooperatively on a bipartisan basis to achieve our goals.

I want to express my personal commendation to the chairman of the subcommittee.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Roe) has 5 minutes remaining.

Mr. ROE. Mr. Speaker, I will take but 1 minute to make the following statement for the benefit of the Members of this House.

I have not heard it said too much around here in the last couple of days, but I think we owe a great commendation to the staff members, both majority and minority, not only on this committee but every committee in this House for the superb work that they do on behalf of the Congress of the United States. I wanted to make that comment before advising you that I have no further requests for time and I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, Will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Pennsylvania.

(Mr. CLINGER asked and was given permission to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I rise in strong support of the conference report. It is going to go a long way toward cleaning up our waters. I had the privilege to serve on this conference committee and I would like to extend my congratulations to my chairman, the gentleman from New Jersey (Mr. Roe), the ranking minority member, the gentleman from Arkansas (Mr. Hammerschmidt), as well as all the members of the conference committee, for their efforts on a bill that restructures the program that funds the construction of sewage treatment projects and is essential to our Nation's water quality.

The conference agreement recognizes limited Federal dollars and limits the grant-eligible categories after October 1, 1984, to secondary treatment, new interceptors and appurtenances, and infiltration/inflow corrections. However, the legislation offers States and municipalities, which have expended considerable time, effort and local funds to comply with existing law, an adequate transition period to prepare for new eligibility criteria. Also, it became evident in our committee hearings and at the conference committee, water quality needs differ markedly from one State to the next. Importantly, this legislation allows the States, at the Governor's discretion, to reserve up to 20 percent of their allotment to cover categories otherwise ineligible under the new reforms. I mention this to bring to the attention of my colleagues that many rural communities have water quality needs that are not covered under eligible categories and I am hopeful that an evenhanded approach will be taken to insure the fair apportionment of discretionary funding to rural needs.

In addition, the legislation permits municipalities receiving a step 3 grant before October 1, 1984, an opportunity to project future growth and provide reserve capacity. After that date, reserve capacity is limited to the projected growth rate of 1990. It is my belief that an adequate sewage treatment facility with reserve capacity is absolutely necessary if a community is to have excess capacity for growth and jobs.

In conclusion, I urge my colleagues to support this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. ROE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question was ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

# SENATE DEBATE ON CONFERENCE REPORT TO ACCOMPANY H.R. 4503

*December 16, 1981*
(Congressional Record, vol. 127, part 24, 32122-32128)

## MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANT AMENDMENTS OF 1981—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 4503 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 14, 1981.)

● Mr. STAFFORD. Mr. President I am pleased to be able to commend to the Senate the conference report on H.R. 4503 the Municipal Wastewater Treatment Construction Grant Amendments of 1981. Under the able and diligent leadership of my friend from Rhode Island Senator JOHN CHAFEE, the conferees have produced an agreement that merits the support of the Senate. Furthermore, it is a bill worthy of the approval of the President.

I would like to take a few minutes to explain why I think this agreement is good for the country in general, and, on a more parochial note, also good for the smaller, rural areas like those I am privileged to represent.

The bill we are sending to the President represents a genuine reform in the municipal wastewater treatment construction program operated by the Environmental Protection Agency. The principal objectives of the legislation proposed by the administration last April will be achieved in this bill.

The most significant difference is that, whereas the administration's proposals were to take effect on enactment, our bill provides a period of transition from the old rules to the new. Let me be specific.

The administration proposed three major changes in the current program. First, only projects that provide actual treatment of wastewater, either secondary or more stringent treatment, and related interceptor sewers would continue to be eligible for Federal cost-sharing assistance. Other categories of construction, such as new sewer collection systems or correction of combined sewer overflows, or sewer maintenance or rehabilitation, would no longer be eligible.

Second, the costs of providing reserve capacity needed to serve populations beyond those existing in 1980 would no longer be eligible. Only backlog treatment needs would receive Federal assistance. Communities would finance their own growth.

Finally, the administration proposed that highest project priority be given to those directly benefiting areas of urban-industrial concentrations, arguing that this would insure that Federal funding is focused on projects that yield the most pollution abatement for the money.

Except for this last item, which creates an undesirable urban bias in the program, the conferees agreed that these changes are needed.

Without them the program is inconsistent with the budget restraint policy proposed by the administration and adopted by Congress.

EPA's 1980 survey of State-identified needs estimated that the total capital costs of constructing projects that are currently eligible for grant assistance is $120 billion (expressed in January 1980 dollars). At 75 percent Federal cost sharing, the long-term Federal commitment to this program would need to be $90 billion. This amount is in addition to the $35 billion that Congress has appropriated under this program since fiscal year 1973.

The administration's proposal to reform the construction grant program is designed to fit within a budget framework of $24 billion; $2.4 billion for 10 years. This level is what would be needed to provide a 75-percent Federal share of the total cost of funding only projects for treatment plants plus interceptor sewers and only those needed to serve the existing population.

Throughout our deliberations, the Senate conferees pursued an agreement that would achieve the following:

First, establish the program reforms (with respect to eligibility, Federal cost-sharing and reserve capacity) within the period of reauthorization and allotment;

Second, provide for transition into the new program;

Third, permit flexibility in State program management; and

Fourth, reduce the remaining potential cost to the Federal Government over the life of the program from the present estimate of $90 billion to about $30 billion.

In my judgment the conference agreement satisfactorily accomplishes these aims. On the major points, we agreed to a reform program that includes:

First. A 3-year transition period during which all construction project categories (treatment plants, interceptors, collectors, infiltration or inflow correction, combined sewer overflows, et cetera) and planned reserve capacity continue to be fully eligible for a 75 percent Federal grant.

Second. Thereafter, beginning October 1, 1984, the new program requirements would take effect. That is, the Federal share for construction would go to 55 percent, reserve capacity costs would no longer be eligible, and only projects for secondary or more stringent treatment, for interceptor sewers and infiltration/inflow correction would continue to be eligible for Federal assistance after the 3-year transition.

Third. Except that, certain projects that begin construction before October 1, 1984, will continue to be eligible for the 75 percent cost share and the planned capacity, to completion.

Where a treatment system—consisting of a secondary or more stringent treatment facility and its related interceptor—receives a step III construction grant award prior to October 1, 1984, subsequent phases or segments necessary to complete these portions of the treatment works continue to be eligible for 75 percent Federal funding, and for the 20-year reserve capacity as planned for these portions of the system. In the case where an interceptor project received a step III construction grant award prior to the date of enactment of these amendments that provided a larger reserve capacity—but not to exceed 40 years—that reserve capacity shall continue to be eligible for funding.

Fourth. In addition, beginning October 1, 1984, a Governor has discretion to divert up to 20 percent of the State's annual allotment to project categories that are otherwise no longer eligible as of that date—new collection systems, for instance. The grant amount for such projects shall be 55 percent, the prevailing Federal share beginning October 1, 1984.

Fifth. A 4-year authorization and State allocation formula—to October 1. 1985. This is essential to both achieve the new program within the period of reauthorization and facilitate a 3-year transition.

This approach relies heavily on the State process for establishing project priorities, and is intended to encourage the advancement of a State's most important projects. On the other hand, the fact that certain project segments or phases may continue to receive reserve capacity and 75 percent Federal assistance until completion, where construction of a treatment system begins before October 1, 1984, should not be interpreted to encourage the practice of project segmenting or phasing.

The Administrator of the Environmental Protection Agency is expected to develop clear definitions and criteria for funding grants for such projects, particularly those initiated after the date of enactment of these amendments. Consideration should be given to the cost of the entire treatment works in relation to the size of a State's annual allotment, the construction time needed to complete eligible treatment works, and whether funding can be provided for a logical portion of a project each year. Consideration should also be given to whether court orders have imposed construction and funding schedules based on project segmenting.

EPA is also expected to encourage and assist in the timely completion of ongoing phased and segmented treatment works projects that have received a portion of their construction funding prior to enactment of these amendments. We do not intend to encourage the initiation of new projects unless there is reasonable expectation that Federal funds will be available to complete projects already begun, old and new.

On a more parochial note, speaking now as the Senator from Vermont, I would like to comment on several other provisions of the conference agreement which particularly concern the smaller rural communities of the Nation. The conference agreement preserves and improves several important aspects of the existing Clean Water Act, which the administration's bill had proposed to eliminate:

First. The minimum allotment of appropriated funds to any State remains at one-half of 1 percent. Assuming the full appropriation of $2.4 billion, Vermont and other minimum States would receive about $12 million annually.

Second. The mandatory set-aside of 4 percent of a rural State's allotment for alternatives to conventional treatment technology is preserved.

Third. The innovative and alternative technology program, is extended as a permanent part of the construction grant program, and funds for the bonus are increased.

Fourth. The priority emphasis on projects serving "urban-Industrial concentrations" is not included. Instead, the establishment of priorities continues to be based on meeting the goals of the Clean Water Act and is determined by the States.

Other features of particular interest to small communities include raising the limitation for projects eligible for combined step II design and step III construction grants to $8 million. Also, the conference agreement mandates the advancement of planning and design grant assistance to small communities which cannot otherwise undertake these costs. The administrator is expected to establish regulations or provide guidance to States to implement this provision, including the determination of what communities qualify for such assistance.

In addition to the matters I have just discussed, I have taken a particular personal interest in another matter which I would like to discuss at this point.

One issue that arose in the conference was the provision in the Senate-passed bill clarifying that the Clean Water Act does not displace or limit other Federal or State law, including common law. This provision was stimulated by the Supreme Court's decision in City of Milwaukee against Illinois, in which the Court incorrectly interpreted Congress intent to displace Federal common law with the regulatory scheme of the Clean Water Act.

The House had not held hearings or considered this matter, and felt that would be necessary to properly craft a response to the Supreme Court's decision. Accordingly, the Senate receded on the provision with the understanding among the conferees that failure to include the provision is without prejudice, and with an agreement to examine further in the next session the best means to accomplish their intent not to displace remedies other than those under the Clean Water Act.

Milwaukee is an extraordinarily troublesome decision for three reasons.

First, because of its implications for the Clean Water Act.

Second, because of its implications for other Federal statutes.

Third, because of its implications for State common law. The premise of the Milwaukee decision is that a comprehensive scheme of regulation displaces the related Federal common law. I do not agree that the Clean Water Act is a comprehensive scheme of regulation.

The Milwaukee case itself was restricted by its terms to only the Clean Water Act and Federal common law with respect to water pollution. However, the rationale of Milwaukee was quickly extended to other substantive areas. In Middlesex County Sewerage Authority against National Seaclammers Association, the Court held that the existence of the Marine Protection, Research, and Sanctuaries Act (which regulates ocean dumping) displaced Federal common law in that field as well.

Clearly, the rationale of Milwaukee could be extended to a virtual universe of problems. Schemes of Federal regulation exist for water, air, toxics, noise, hazardous waste, and other of environmental media. Again, while I do not believe any of these schemes are nearly as comprehensive as the Clean Water Act, a court might find one to be so.

Further, there is the great risk that the decision might not be restricted just to environmental regulation or just to Federal common law. Whatever Federal common law might exist regarding securities, transportation, communications, food purity, drug efficacy, and the like, could, under unwise extensions of the Milwaukee rationale, be displaced.

Moreover, if Federal common law is to be displaced, there is the unacceptable risk that State common law might be displaced as well. In fact, in a recent Massachusetts case—McMahon against Amoco Oil Co.—the State sued for contamination of ground water caused by waste oil. This was not covered by the Massachusetts water pollution control act, so the suit was based on State common law. The defendant, Amoco, raised as a defense the Milwaukee case, asserting that State common law had been displaced. This was rejected by the court, but illustrates the dangerous potential of the Milwaukee decision.

In another case—this one closer to home for this Senator—residents of Vermont have filed suit against International Paper for water pollution originating in upstate New York. International Paper has said it is not liable because Federal common law is displaced pursuant to Milwaukee.

Section 23 of the Senate-passed bill would have restored the situation to what Congress intended, and indeed expected until the Supreme Court's surprising decision.

Until 6 months ago, the present state of affairs with regard to Federal common law did not exist. There was a Federal common law which applied to cases of interstate water pollution. It was the same Federal common law which had applied for decades and probably longer. It was the same Federal common law which had applied since the first Federal Clean Water Act in the late forties. And it was the same Federal common law which had applied since the expansion of the regulatory program in 1972, articulated by the Supreme Court in Illinois against Milwaukee and other cases.

Of course, some details changed. But the principle that there was a Federal common law remained applicable. Businesses were not bankrupted. Court time and resources were not consumed by frivolous lawsuits. And, helpless defendants were not subjected to judicial blackmail.

I do not believe my fears regarding the potential damage of the Milwaukee decision are misplaced. As I stated, it has already been brought up as a defense to a suit based on State common law. And, based on information from the office of the attorney general of the State of New York, I understand that it has been raised as a defense in a suit involving the Clean Air Act. Thus, two of my fears—an extension to other Federal laws and an extension to State common law—have already begun to materialize. Yet the decision is only 6 months old.

I stress in the dearest possible words that the Senate passage of section 23 and the conferees agreement with its intent, and commitment to examine in the next session the best means to accomplish this intent, should be read to discourage any extension of the Milwaukee rationale.

I do not believe the Congress has yet addressed the issue of displacement, generally. There is, however, one recent law which explicitly addressed the problem. That is the superfund. And, I might note, it expressly preserved both Federal and State common law, even in cases of compliance with Federal permits under the Clean Water Act or other statutes.

The Supreme Court has construed our silence in the Clean Water Act to mean that we intended displacement. I do not believe that is true. I believe that compliance with the statutes is merely evidence—though it might be compelling evidence—that a person is fulfilling his legal obligations under the common law. But I do not believe it was ever our intent to say that the existence of a regulatory scheme means an injured party is out of court.

As I said, my amendment was an attempt to remedy this problem. Milwaukee casts a shadow over our entire system of jurisprudence.

The exact language of my amendment may require additional crafting. What is important are not so much the specific words or phrases, but the intent, which our two committees support, and the Congress endorsed as recently as last year's superfund law.

Mr. President, these amendments are but the first step in a more comprehensive review that the Committee on Environment and Public Works plans to undertake on the Clean Water Act and the operation of EPA's water quality program. It is our intention to begin our review as soon as practicable after the second session of the 97th Congress convenes in January.

This effort will be largely directed by the chairman of the Subcommittee on Environmental Pollution, Senator JOHN CHAFEE. I know that he will continue to receive the excellent cooperation and participation by other members of the subcommittee, both majority and minority, that characterized the work on the construction grant reauthorization amendments. I want to take this opportunity to commend Senator CHAFEE personally for his leadership in the Senate, and in his capacity as chairman of the conference committee on this legislation.

It is not always glamorous work, but it is vital work, for the protection of our natural environment, for the health and well-being of the public and for the benefit of our cities and towns which must undertake the construction of waste treatment facilities.

I also thank my friend and colleague, the ranking minority member of the committee, Senator JENNINGS RANDOLPH for his helpfulness and faithfulness throughout the development of this legislation. A special mention should also be made of the committee staff which assisted so helpfully, as always: Bailey Guard, John Yago, William Corcoran, Philip Cummings, Jacqueline Schafer, Curtis Moore, Ann Garrabrant, and our thanks too to the staff of the other committee members who participated in this effort.

Mr. CHAFEE. Mr. President, I am pleased to report that the House and Senate conferees have reached agreement on amendments to the Clean Water Act and those amendments are before us today. The amendments address just those portions of the act concerning the construction of municipal sewage treatment facilities. Other portions of the act are not affected.

Many of you may remember that earlier this year Congress eliminated funding for this program during the reconciliation process. Quite frankly, this was done because the program had gotten out of control. Eligibilities were expanding, costs were skyrocketing and the overall Federal commitment to the program was balloning to a total in excess of $100 billion.

The new administration recognized this and decided it was time to address the difficult questions—should we reform the program and emphasize water quality, or should we let the program continue as is, at the expense of water quality. The administration proposed some excellent amendments to the act, many of which are reflected in the final product. Some others were not accepted.

A case in point is the reimbursement section of the Clean Water Act, section 206. The conferees believe strongly that States and local governments should be encouraged to proceed with construction of needed facilities with the expectation of Federal reimbursement at a later date. As a group Mr. President, the conferees still believe that in the long run reimbursement will save the Federal Government money and improve water quality. We urge the administration to carefully review their policy toward section 206.

The thrust of the administration proposal, and the package before you today, is reducing the Federal exposure or more appropriately bringing expectations in line with something that is fiscally achievable. We have done that. I do not know, nor does anyone, what the Federal exposure of the conference agreement is, but I know and so does the administration, that the reduction in the exposure level is real and it places achievement of water quality goal of the act within our grasp over the next decade.

Our compromise is a fair one. For the next 3 years the program remains as is but in the fourth year all the rules change. Essentially each Governor must decide his priorities and put them into place quickly in order to qualify for continued funding and reserve capacity under the present rules. If a treatment facility receives any portion of a I, II, or IVb grant prior to October 1, 1984, that facility will qualify for a 75 percent Federal grant for the I, II and IVb portion of the plant until its completion, as well as sufficient reserve capacity as currently defined in regulations.

Additionally any infiltration-inflow correction work, category IIIA, on such a facility would also receive a 75 percent grant if the initial grant was made prior to October 1, 1984. The EPA should use infiltration and inflow correction as an alternative to funding reserve capacity.

I have not mentioned collector sewers, which were an important component of the conference. Collector sewers will continue to be eligible for Federal assistance until October 1, 1984. What happens to them after that date I will address later. It is not the intention of the Senate Conferees that there should be a great rush on the part of States to build collector sewers.

On the contrary, there are legitimate situations in which collector sewers are inseparable from public health. An example of this is the South Valley project in New Mexico. Without adequate collector sewers, public health and ground water are both endangered. This is a compelling example of the type of collectors which should be built.

We are placing a great burden on the EPA. We expect that regulations promulgated pursuant to this conference agreement will discourage any funding of collector sewers that encourage growth. Federal assistance should be available to alleviate pollution problems not create them. Additionally, the regulations should establish a clear policy on reserve capacity.

As I mentioned earlier, we have a provision which allows some projects which were begun prior to October 1, 1984 to complete treatment portions of these under the old rules for both the Federal share and reserve capacity. The conferees intend that this window is narrow and not wide open. Segments of projects that will qualify to continue operations under existing rules should be discrete and major segments.

The grant application for a segmented step III should include all portions of the facility that are expected to qualify for the grandfather even if the particular application is for a portion of that overall project. The agency's emphasis should be on completing systems not on making certain that the grandfathering provision is overly generous.

Beyond October 1, 1984, other important changes occur which cannot be minimized. Building reserve capacity with Federal assistance is eliminated after October 1, 1984. Projects which are not eligible for the grandfather provisions will only receive Federal assistance for the portion of the treatment works necessary to treat existing flows on the date the step III construction grant is awarded.

Coupled with the elimination of reserve capacity is the continued eligibility of infiltration-inflow correction work. I have always believed that infiltration and inflow correction is a significant cost-saving measure.

However, because reserve capacity has always been eligible for Federal funding, I never thought that infiltration-inflow correction was carried out as it should be. It is a lot more attractive to get a big grant for a mammoth new sewer than it is to obtain a small grant to do some real nuts and bolts things.

The conference report makes infiltration-inflow correction a meaningful component of the program for the first time. I wouldn't be the least surprised if many communities which are on a 1986 or 1987 time schedule for receiving a grant for sewer construction, reassess their position and go forward with infiltration-inflow correction work instead.

A major change in the program, on par with reserve capacity, is the reduction in the Federal share in fiscal year 1985 to 55 percent for all now grandfathered projects. The Federal Government has been generous with its share of project costs and we simply have to change that policy. We have to spread fewer dollars further.

I also believe that while the large Federal share was necessary in getting the program moving, it was responsible for some poor decisionmaking at the State and local level. Unfortunately, many treatment facilities are oversized and unnecessarily complex simply because of generous Uncle Sam. This will change.

From now on difficult choices will have to be made at the local level because communities will have more at stake then previously. The emphasis will be on well designed and energy efficient treatment plants. This can only benefit water quality.

After October 1, 1984, the Governors will have more flexibility then has previously been the case. After that date Governors can use up to 20 percent of their annual allotment to address no longer eligible categories. They may choose to only use 5 percent or none at all, but it is their decision. Anything funded out of the discretionary fund will receive a maximum 55 percent Federal, regardless of whether or not it ever received a large Federal grant share. Categories which cannot be funded out of the discretionary fund are I, II, IIIa and IVb.

I am pleased to report that the provisions in the Senate bill regarding combined sewer overflows have been maintained. They are key provisions insofar as ever achieving our water quality goals are concerned.

Some have mentioned that the Senate bill has kept in place all needs for combined sewer overflow corrections. That is simply not the case. The legislative history is clear. The universe of projects affected by the provision giving each Governor discretion to deal with combined sewer overflows is much smaller than what is presently eligible. Section 5 contains a very difficult water quality test that not every project will be able to pass. The same is true of the program established for overflows into marine bays.

The other significant point included in the conference report is a 4-year authorization and 4-year funding. This program has no shortage of critics. Newspapers and magazines have called attention to the unfulfilled promise of clean water for everybody. The conclusion is always the same, the programs been a bust. Simply, put, I think that charge is hogwash.

The problems with the program are as easily discovered as saying that all our waters are not clean so the program is a failure. After spending the last year working on the problem I can tell you that the program was well-designed, even if it was too generous, but the major problem—nobody leaves it alone to run smoothly.

The Congress and the Federal EPA always seem to be tinkering with some portion of the program, always disrupting program continuity. This 4-year authorization is crucial to removing institutional instability. It is a clear signal that Congress has acted and will not meddle again for several years. It is also a clear signal to Governors and mayors to make their plans based on a firm commitment of $2.4 billion per year for each of the next 4 years. This is the figure that was requested by the President.

Other provisions in the agreement will also help to make this a better program. We have increased the incentive for communities to utilize the innovative and alternative waste water treatment programs. We have reopened the opportunity for some cities which discharge into the ocean to obtain waivers for secondary treatment of municipal wastes.

We did not change any of the environmental tests which had to be met by a discharger before a waiver could be granted. Also, explicitly, the agreement prohibits any waivers which would allow the introduction of sewage sludge into the marine environment. The entire question of ocean disposal will be carefully examined in the next session by the subcommittee.

Because of all the attention the term "Federal exposure" has received this year the first question that anyone asks about the conference report is what its Federal exposure? The only accurate answer is that I do not know what the Federal exposure is, and I am sure anyone else who attaches a number to it is picking those numbers out of the dark.

The reason why any estimate is no more than guesswork is that these amendments will force State and local governments to rethink their plans. The priority projects will be started and finished while marginal or less environmentally needed projects will simply be dropped from priority lists. For that reason, engaging in a numbers game is simply a fruitless exercise.

Those who are concerned about the numbers should first look at what the conference report will accomplish. It will eliminate Federal funding of reserve capacity, it will reduce the Federal share and improve project selection and design. It will limit the categories of treatment that Federal assistance will be available for. It will give each Governor some discretion over a part of his allotment to deal with priority pollution problems.

Lastly and most importantly, the conference report emphasizes completing projects and putting Federal dollars where the need is greatest.

Lastly, I want to thank the conferees from the Senate, particularly Senators STAFFORD, RANDOLPH, GORTON, and DOMENICI. Each of them was extremely helpful in achieving true reforms on this effort. The staff of the committee, Bill Corcoran, Jackie Schafer, Phil Cummings and Ann Garrabrant did an excellent job of moving this process forward. The chairman of the House conferees, BOB ROE and the ranking member JOHN PAUL HAMMERSCHMIDT were well-informed, fair, and strong advocates for their positions.

I would also like to put in a word for the administration. John Hernandez, from EPA, and the director of the construction grants program, Henry Longest, were always available with expert advice. The subcommittee appreciated their cooperation. As the conference agreement is put into place by the agency it will be of great benefit to the program that their involvement was so substantial.

I expect that when Congress looks at the municipal program 3 years from today it will be viewing an efficient and smooth-running operation.

● Mr. GORTON. Mr. President, I add my comments to those of my distinguished colleagues in support of this conference report. In my view, this report represents a sound approach toward the difficult goal of restructuring the construction grants program. Such a restructuring is critical if we are ever to make significant progress in cleaning the Nation's waters.

The Federal Government can no longer proceed as if it has unlimited resources to allocate to this program. The difficult task facing the conference committee was to determine the most effective manner in which to utilize the $2.4 billion this bill would authorize for fiscal year 1982, as well as to reduce the total future exposure of the Federal Government. That task has been accomplished by several significant provisions of this bill. The bill provides a reduced Federal share of funding for those categories of projects that remain eligible.

This approach allows the use of Federal funds in a larger number of cases while at the same time funding only those categories directly related to water quality. Because it is a multiyear bill it will add a measure of predictability to the program. And, the bill also allows the State the flexibility to address water quality problems not otherwise eligible, through the use of a discretionary fund. Each of these aspects of the bill will add to the likelihood that we will more efficiently and effectively deal with our water quality problems in the future.

I would like to offer my personal congratulations to Senators Chafee and Randolph for their hard work and tenacity in developing this conference report. I know that many States have been anxiously awaiting the outcome of this conference. The result is one which should please most of the affected parties. The Senate members of the conference committee will continue their efforts to assure that an appropriation for this program will be forthcoming from Congress as soon as possible following our return in January. Again, my congratulations to Senators Chafee and Randolph for this fine result.●

● Mr. DOLE. Mr. President, I wish to address these remarks to the distinguished floor manager of the bill, Mr. Chafee, in the hope that he might clarify for me the limitation this legislation imposes on future appropriations action.

My concern in this area is due to an accounting error in EPA's region VII office which resulted in the loss of $4 million of municipal sewage treatment grant funds for the State of Kansas. As a result of this accounting error, projects which should have been credited during 1980 to the Talmadge-Nunn account, rescinded in 1981, were incorrectly credited to fiscal year 1980 and 1981 accounts not subject to the rescission order.

This error was acknowledged by OMB Director David Stockman in a letter to me dated October 29, 1981. That acknowledgement was received after H.R. 4503 had been passed by both the Senate and the House and gone to conference. Consequently, the conference report before us today does not address the issue of restoring funds that should not have been rescinded.

I ask the distinguished chairman if it is his understanding that nothing in the conference report should be construed as limiting the Congress in making future appropriations to rectify this error?

Mr. CHAFEE. That is my understanding. The conference report does not address the issue of rectifying past accounting errors and would not preclude Congress from taking that action.●

Mr. RANDOLPH. Mr. President, I am gratified to rise in strong support of this conference report, which is the product of long and arduous efforts on the part of both House and Senate Public Works Committees.

While the background of this legislation is well known to many Members of this body. I think it appropriate to briefly outline the rationale for this bill.

With the Clean Water Act of 1972, this Nation launched a massive campaign to stem the increasing degradation of our waters. The goals of that act were twofold: to clean up existing pollution and to prevent further contamination. With the 1972 legislation, a Federal effort second only in magnitude to the Federal-aid highway program was begun. A primary focus of that act was title II, the construction grant program. Title II mandated that all municipal wastewater treatment facilities in the United States achieve secondary treatment by 1977.

The Federal share for funding wastewater treatment plan construction was set at 75 percent. Complex and specific requirements were stipulated by Congress as prerequisites for Federal grants.

From its inception, the construction grant program has had major difficulties in accomplishing its goals. The costs of the program were greatly underestimated, as were the technological problems associated with achieving clean water. The primary goal of the act, secondary treatment by 1977, was extended by subsequent legislation to 1983.

By the end of 1980, 34.8 billion had been appropriated for the construction grant program and $29 billion had been obligated. The remaining needs were estimated by the Environmental Protection Agency to be in the neighborhood of $100 billion. The program has been under attack by the General Accounting Office and in a number of newspaper articles from the standpoint of cost, possible mismanagement, and inadequate maintenance and operation of completed facilities.

The current administraton recommended no funding for the program in fiscal year 1982 unless reforms were enacted which reduced the scope and the eligibilities of projects. While appropriations in fiscal year 1981 were $3.4 billion before the rescissions enacted in June, in accordance with today's budget constraints, the administration indicated a support for only $2.4 billion for the current fiscal year if such reforms were enacted.

Mr. President, the conference report on H.R. 4503 represents those reforms. In essence, this reform legislation authorizes $2.4 billion annually for fiscal years 1982 through 1985. At the beginning of fiscal year 1985, the current 75 percent Federal share of new construction projects drops to 55 percent. Projects which have received either a partial or entire step 3 construction grant by October 1, 1984, will continue to receive 75 percent Federal funding for treatment facilities and interceptors until completion.

After October 1, 1984, eligible project categories will be limited to secondary or more stringent treatment or any cost-effective alternative, new interceptors and appurtenances, and infiltration-inflow. After that date, projects no longer eligible can be funded at the discretion of the Governor, from a fund consisting of up to 20 percent of a State's allotment.

In addition to these major points, the legislation continues existing incentives for innovative and alternative systems. The percentage of alloted funds which a State must expend for the incentive bonus on projects employing innovative or alternative system is raised from the current 3 percent to a minimum of 4 percent and a maximum of 7½ percent.

A new procedure is established whereby new plants will remain under the supervision of their builders for 1 year in order to assure that their performance complies with the standards established under the act.

In recognition of the impact of reduced Federal funding the statutory deadline of 1983 for the achievement of municipal secondary treatment is extended to 1988.

Mr. President, in the Senate version of this legislation, I was able to persuade the Committee on Environment and Public Works to include a provision which extended authority for small communities to construct collector sewers with construction grant funds for 1 additional year, under restricted circumstances. I am pleased to report that the conference substitute retains eligibility for collector sewers for an additional 3 years for all communities. This is particularly important for small communities such as in West Virginia, where collectors are necessary to treatment systems.

I sincerely believe that this legislation is good. It perhaps does not accomplish all the reforms the President has sought, as quickly as he would like. But a massive scaledown of a large program such as construction grants cannot be achieved on an immediate basis without grave hardship to communities and States. This bill serves clear notice that the Federal Government can and will no longer shoulder the giant's share of the bill to clean up our waters. States will have 3 years to determine their priorities and plan how to fund an increased share of what will be needed to obtain clean water. I have every confidence that they will be able to do so.

We intend to seek $2.4 billion in fiscal year 1982 funding in an urgent supplemental appropriations bill shortly after the reconvening of the 97th Congress. It would be devastating if a hiatus were created in the continuous funding this program has received over the past decade.

Mr. President, there was some confusion about what the allotment for West Virginia would be under this bill. The conference report as printed in the RECORD of December 14 was incorrect, as was House Report 97-408. Under this legislation, West Virginia will receive $42.4 million in fiscal year 1982, and $38.1 million in each of fiscal years 1983, 1984, and 1985. This is an allotment factor of 0.015890, not 0.013890 as shown in the incorrect document. Therefore, West Virginia can expect $156.7 million over the next 4 years, when annual appropriations of $2.4 billion are made.

Mr. President, I want the RECORD to show my agreement with Senator STAFFORD's remarks on section 23 of the Senate-passed bill. In deference to the fact that the House had not held hearings on how to draft an amendment of this kind, we agreed to not include the provision in the conference report. It was the explicit understanding of the conferees that failure to include this provision is without prejudice, and the conferees agreed to examine further in the next session the best means to accomplish their intent not to displace remedies other than those under the Clean Water Act.

As one Senator who took an active part in drafting the 1972 Clean Water Act, I know that the Congress did not intend to displace any previously existing remedies under Federal or State law, including common law, when that act was passed. It has always been the intent of Congress, and in particular the Senate Committee on Environment and Public Works, to leave in place other statutory and common law remedies when enacting environmental laws, unless such remedies are explicitly addressed and preempted. The Supreme Court incorrectly interpreted congressional intent in the Milwaukee case, and any extension of that decision would be unwise.

A related issue is whether a federally issued permit is a bar to liability actions where a discharge or emission causes damages. In the so-called Sea Clammers case, the Supreme Court appears to say that even the existence of a permit which is being violated gives immunity to liability for damages caused. This has never been congressional intent or understanding.

The most recent expression of Congress on these points came in last year's enactment of the Comprehensive Response, Compensation, and Liability Act. Section 302(d) of that act says:

> Nothing in this Act shall affect or modify in any way the obligations or liabilities of

> any person under other Federal or State law, including common law, with respect to releases of hazardous substances or other pollutants or contaminants. The provisions of this Act shall not be considered, interpreted, or construed in any way as reflecting a determination, in part or whole, of policy regarding the inapplicability of strict liability, or strict liability doctrines, to activities relating to hazardous substances, pollutants, or contaminants or other such activities.

In explaining the intent behind this provision, the Senate report accompanying this bill (S. Rept. 96–848) states:

> By explicitly stating liability rules in this statute, the Committee does not intend that S. 1480 in any way preempt or weaken any other law. All other remedies are to continue to exist after enactment of this bill, including those under common law, admiralty law, and Federal and State statutory law. This is important to note in that while S. 1480 in many respects generally codifies existing law, in some specific respects its liability rules are more limited than those under existing law. For instance, while the Fund is precluded from using the rules of section 4 to seek recovery for cleanup costs or payment of damage claims for certain categories of releases, other remedies or provisions of the common law or any other law are available to the Fund and the Fund should use them to recoup its expenses.

In that report the Committee on Environment and Public Works also made the following observations about Federal permits and potential liability of permit-holders to damage suits and abatement action under other authorities:

> The rule of common law is that compliance with a permit is not a defense to liability. Moreover, the Congress has never said or suggested that a Federal permit amounts to a license to create threats to public health or the environment with legal immunity.

The philosophy of the Senate-passed bill's amendment to section 511 of the Clean Water Act continues to be the intent of this Senator and, in my understanding, of the Congress. I look forward to perfecting legislation which makes sure that this intent is carried out in the Clean Water Act, as in other Federal environmental laws.

Mr. President, I compliment those who labored long and hard—on several occasions well into the night—on this legislation.

I specifically commend Senator JOHN CHAFEE, Environmental Pollution Subcommittee chairman, who served as chairman of the conference; Senator ROBERT STAFFORD, our full committee chairman; Senator GEORGE MITCHELL, ranking minority member of the subcommittee; and all the other members of the conference committee.

Our colleagues on the other side of the Hill joined with us in extensive efforts to resolve the differences between two very different pieces of legislation.

Representative ROBERT ROE, chairman of the House conferees, was diligent in his efforts to help develop a bill acceptable to both bodies, as was his minority counterpart, Representative JOHN PAUL HAMMERSCHMIDT.

It has been a long, often rocky road since we first began consideration of this legislation. We are now at the end of that road. I urge favorable consideration of this conference report by the Senate. I then fully expect the President to sign the legislation and support an appropriation so that this vital program will proceed in a timely fashion.

Mr. President, I will speak very briefly in further reference to the conference report.

As conference chairman, Senator CHAFEE had not a difficult time but that period of discussion which often leads to misunderstandings between the House of Representatives and Senate and certain points of view expressive of the Senate legislation and of comparable House legislation.

I feel, I say to the majority leader who I am looking at at the present time, that in connection with what we have done on the committee of which he is a member, in reference to clean water, we pinpoint 1972 and 1976 as landmarks in connection with the legislation.

Let us realize that what we are now doing is a transition bill to revise the scope of this vital program.

It reduces the funding, and that is understandable. Funding has been reduced in practically every program in which Federal aid is matched by States and local political subdivisions.

But those changes in the program are responsive to the needs of the men, women, and children, who throughout America live in larger and smaller communities, in the prevention of pollution of our water.

We work, of course, now not with the sum of money we were working with before. We are working under this bill over a period of 4 years at the rate of $2.4 billion on an annual basis.

This is important legislation. Of course, the conference agreement comes in the closing hours of the 1st session of the 97th Congress, but we are conscious of the need for this continuing program out there in America.

I remember when I talked with the capable Governor of Utah, Scott Matheson, when he was in Washington, D.C., recently. He said "the priority for us in the State of Utah is the wastewater treatment plants, the sewage systems; that is the priority that I have as a Governor of the State of Utah.

"I am not unmindful," he said, "of the need to cut back on the Federal funding, but whatever we can do, joined by the Federal and the local community and other political subdivisions to bring clean water to the communities of Utah is something in which I am intensely interested and I desire to know what you are doing."

So we talked with him and others talked with him. I think he went home from his visit here feeling that we were not unmindful of our need to address these problems, not only in 1972 and 1976, but also in 1981 and in the years that are out there ahead of us.

I thank those who have given me the opportunity here to speak these words which I feel very strongly.

Mr. CHAFEE. Mr. President, I wish to take this opportunity to express my deep appreciation and thanks to all those on the Environment and Public Works Committee and especially to our chairman who is unable to be here this evening and the man we always call chairman who served as chairman of that committee for so many years, the distinguished senior Senator from West Virginia. He attended our conference sessions with great faithfulness. He was a tower of support and understands this legislation.

He recognizes what we are attempting to achieve and he has supported us with great vigor and consistency throughout those long sessions that we had with the House conferees.

Like any conference, we did not achieve everything that the Senate conferees sought. But nonetheless we believe that this legislation that emerged, the conference report we are voting on now, was a fair one to both sides and indeed fair to the citizens of our Nation.

It authorizes some $2.4 billion a year for 4 years, as the senior Senator from West Virginia said, for the waste water treatment plants.

Some 35 States now are out of funds. Without the passage of this legislation and without the passage of the legislation of course with the appropriations which must follow, the programs in those 35 States will come to a stop.

So, as I mentioned, most of the reform we sought, and the administration sought, has been included in this legislation.

So I urge the Senate to adopt the conference report.

Mr. BAKER. Mr. President, I will not take very long. I wish to once again pay my respects to the distinguished chairman from West Virginia (Mr. RANDOLPH), who was my chairman when I had the opportunity to be active on that committee, and where he served with great distinction for so long in that role, and now serves with equal distinction as the ranking Democratic member of the committee. Some of us who served on that committee think JENNINGS RANDOLPH invented that committee.

In any event, we salute him for the good work he has done in the past and for the good work he has done tonight, and I join with my colleague from Rhode Island and others in offering these words of congratulation to the Senator, and to Senator STAFFORD as well, the present distinguished chairman of the committee, who carries on in great tradition.

I urge my colleagues to adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

97TH CONGRESS
*1st Session*

HOUSE OF REPRESENTATIVES

REPORT
No. 97-408

# MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANT AMENDMENTS OF 1981

DECEMBER 14, 1981.—Ordered to be printed

Mr. ROE, from the committee of conference, submitted the following

# CONFERENCE REPORT

[To accompany H.R. 4503]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

### *SHORT TITLE*

*SECTION 1. This Act may be cited as the "Municipal Wastewater Treatment Construction Grant Amendments of 1981".*

### *ELIGIBLE CATEGORIES*

*SEC. 2. (a) Section 201(g)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "On and after October 1, 1984, grants under this title shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding sentence, the Administrator may make grants on and after October 1, 1984, for any project within the definition set forth in section 212(2) of this Act, other than for a project referred to in the preceding sentence, except that not more than 20 per centum (as de-*

*termined by the Governor of the State) of the amount allotted to a State under section 205 of this Act for any fiscal year shall be obligated in such State under authority of this sentence.".*

*(b) Section 211(c) of the Federal Water Pollution Control Act is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1985,".*

### *GRANTS FOR STEPS 1 AND 2*

*SEC. 3. (a) Section 201 of the Federal Water Pollution Control Act is amended by adding a new subsection (l):*

*"(l)(1) After the date of enactment of this subsection, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications, and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 202(a) of this Act, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.*

*"(2)(A) Each State shall use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to advance to potential grant applicants under this title the costs of facility planning or the preparation of plans, specifications, and estimates.*

*"(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant which is a small community and which in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.*

*"(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reduce the amount of such grant by the allowance established under paragraph (1) of this subsection. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.".*

### *MITIGATION AND SPECIAL PROCESSES*

*SEC. 4. Section 201 of the Federal Water Pollution Control Act is amended by adding the following new subsection:*

*"(m)(1) Notwithstanding any other provisions of this title, the Administrator is authorized to make a grant from any funds otherwise alloted to the State of California under section 205 of this Act to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board.*

*"(2) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of Eureka, California, in connection with Project No. C-06-2772, for the purchase of 139 acres of property as environmental mitigation for siting of the proposed treatment plant.*

*"(3) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the*

*State of California to the City of San Diego, California, in connection with that city's aquaculture sewage process (total resources recovery system) as an innovative and alternative waste treatment process.".*

### *COMBINED SEWER OVERFLOW*

*SEC. 5. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(n)(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.*

*"(2) Beginning fiscal year 1983, the Administrator shall have available $200,000,000 per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.".*

### *CAPITAL FINANCING*

*SEC. 6. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:*

*"(o) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—*

*"(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;*

*"(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and*

*"(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.".*

### *FEDERAL SHARE*

*SEC. 7. The first sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended by inserting after "1971," the following: "and ending before October 1, 1984,". The first sentence of such section is further amended by inserting after "(as approved by the Administrator)," the following: "and for any fiscal year beginning on or after October 1, 1984, shall be 55 per centum of the cost of construction thereof (as approved by the Administrator),". Such section 202(a)(1) is further amended by adding at the end thereof the following new sentence: "Notwithstanding the first sentence of this paragraph, in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors or a project for* *infiltration-in-flow correction has received a grant for erection, building, acquisition, alteration, remodeling, improvement, extension, or correction before October 1, 1984, all segments and phases of such facility, interceptors, and project for infiltration-in-flow correction shall be eligible for grants at 75 per centum of the cost of construction thereof.".*

### INNOVATIVE AND ALTERNATIVE PROCESSES

*SEC. 8. (a) Section 202(a)(2) of the Federal Water Pollution Control Act is amended by inserting after the first sentence the following: "The amount of any grant made after September 30, 1981, for any eligible treatment works or unit processes and techniques thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be a percentage of the cost of construction thereof equal to 20 per centum greater than the percentage in effect under paragraph (1) of this subsection for such works or unit processes and techniques, but in no event greater than 85 per centum of the cost of construction thereof.".*

*(b) Section 202(a)(4) of the Federal Water Pollution Control Act is amended by striking out "in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981" and by striking out the last sentence.*

*(c) Section 205(i) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," in the first sentence and inserting in lieu thereof "September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985," and by striking out "from 75 per centum to 85 per centum", and by adding at the end thereof the following: "Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 per centum nor more than 7½ per centum of the funds allotted to such State for any fiscal year beginning after September 30, 1981, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".*

*(d) Section 212(1) of the Federal Water Pollution Control Act is amended by inserting after "procedures," the following: "field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 304(d)(3) of this Act,".*

### COMBINED STEP 2 AND 3 GRANTS

*SEC. 9. Section 203(a) of the Federal Water Pollution Control Act is amended by striking "$4,000,000" and inserting in lieu thereof "$8,000,000". The last sentence of such section 203(a) is hereby repealed.*

### RESERVE CAPACITY

*SEC. 10. (a) Section 204(a)(5) of the Federal Water Pollution Control Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "Beginning October 1, 1984, no grant shall be made under this title to construct that portion of any treatment works providing reserve capacity in excess of existing needs (including existing needs of residential, commercial, industrial, and other users) on the date of approval of a grant for the erection, building, acquisition, alteration, remodeling,* *improvement, or extension of a project for secondary treatment or more stringent treatment or new interceptors and appurtenances, except that in no event shall reserve capacity of a facility and its related interceptors to which this subsection applies be in excess of existing needs on October 1, 1990. In any case in which an applicant proposes to provide reserve capacity greater than that eligible for Federal financial assistance under this title, the incremental costs of the additional reserve capacity shall be paid by the applicant;".*

*(b) Section 204 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(c) The next to the last sentence of paragraph (5) of subsection (a) of this section shall not apply in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors has received a grant for erection, building, acquisition, alteration, remodeling, improvement, or extension before October 1, 1984, and all segments and phases of such facility and interceptors shall be funded based on a 20-year reserve capacity in the case of such facility and a 20-year reserve capacity in the case of such interceptors, except that, if a grant for such interceptors has been approved prior to the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, such interceptors shall be funded based on the approved reserve capacity not to exceed 40 years.".*

*(c) Section 201(k) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "This subsection shall not be in effect after November 15, 1981.".*

## *BRAND NAME*

*SEC. 11. Section 204(a)(6) of the Federal Water Pollution Control Act is amended by striking out ", or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'" and by adding at the end thereof the following: "When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.".*

## *ENGINEERING PERFORMANCE*

*SEC. 12. Section 204 of the Federal Water Pollution Control Act is amended by adding the following new subsection:*

*"(d)(1) A grant for the construction of treatment works under this title shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this title.*

*"(2) On the date one year after the completion of construction and initial operation of such treatment works shall certify to the Ad-*

*ministrator whether or not such treatment works, the owner and operator of such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to section 402 of the Act for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.*

*"(3) Nothing in this section shall be construed to prohibit a grantee under this title from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a contract pertaining to a project assisted under this title, than those provided under this subsection.".*

### *ALLOTMENT FORMULA*

*SEC. 13. (a) Section 205(c) of the Federal Water Pollution Control Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:*

*"(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, 1984, and 1985 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. Notwithstanding any other provision of law, sums authorized for the fiscal year ending September 30, 1982, shall be allotted in accordance with table 3 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives. Sums authorized for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985 shall be allotted in accordance with the following table:*

*Fiscal years 1983 through 1985*

| *States:* | |
|---|---|
| *Alabama* | *0.011398* |
| *Alaska* | *.006101* |
| *Arizona* | *.006885* |
| *Arkansas* | *.006668* |
| *California* | *.072901* |
| *Colorado* | *.008154* |
| *Connecticut* | *.012487* |
| *Delaware* | *.004965* |
| *District* | *.004965* |
| *Florida* | *.034407* |
| *Georgia* | *.017234* |
| *Hawaii* | *.007895* |
| *Idaho* | *.004965* |
| *Illinois* | *.046101* |
| *Indiana* | *.024566* |
| *Iowa* | *.013796* |
| *Kansas* | *.009201* |
| *Kentucky* | *.012973* |
| *Louisiana* | *.011205* |
| *Maine* | *.007788* |
| *Maryland* | *.024653* |
| *Massachusetts* | *.034608* |
| *Michigan* | *.043829* |
| *Minnesota* | *.013735* |
| *Mississippi* | *.009184* |
| *Missouri* | *.028257* |
| *Montana* | *.004965* |

| | |
|---|---|
| *Nebraska* | *.005214* |
| *Nevada* | *.004965* |
| *New Hampshire* | *.010186* |
| *New Jersey* | *.041634* |
| *New Mexico* | *.004965* |
| *New York* | *.113097* |
| *North Carolina* | *.018396* |
| *North Dakota* | *.004965* |
| *Ohio* | *.057383* |
| *Oklahoma* | *.008235* |
| *Oregon* | *.011513* |
| *Pennsylvania* | *.040377* |
| *Rhode Island* | *.006750* |
| *South Carolina* | *.010442* |
| *South Dakota* | *.004965* |
| *Tennessee* | *.014807* |
| *Texas* | *.038726* |
| *Utah* | *.005371* |
| *Vermont* | *.004965* |
| *Virginia* | *.020861* |
| *Washington* | *.017726* |
| *West Virginia* | *.013890* |
| *Wisconsin* | *.027557* |
| *Wyoming* | *.004965* |
| *Samoa* | *.000915* |
| *Guam* | *.000662* |
| *Northern Marianas* | *.000425* |
| *Puerto Rico* | *.013295* |
| *Pacific Trust Territories* | *.001305* |
| *Virgin Islands* | *.000531* |
| *U.S. Totals* | *.999996* |

*(b) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1981" each of the two places it appears and inserting in lieu thereof at each such place "1981, 1982, 1983, 1984, and 1985".*

### *STATE ADMINISTRATION GRANTS*

*SEC. 14. (a) The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting immediately after "October 1, 1977," the following: "except in the case of any fiscal year beginning on or after October 1, 1981, and ending before October 1, 1985, in which case the percentage authorized to be reserved shall not exceed 4 per centum.".*

*(b) Section 205(g)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.".*

### *WATER QUALITY MANAGEMENT PLANNING*

*SEC. 15. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or $100,000, whichever amount is the greater.*

*"(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—*

*"(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;*

*"(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);*

*"(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and*

*"(D) determining those publicly owned treatment works which should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 303(e) of this Act.*

*"(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.*

*"(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.".*

### *CONVENTION CENTER*

*SEC. 16. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.".*

### *AUTHORIZATION*

*SEC. 17. Section 207 of the Federal Water Pollution Control Act is amended by striking out all that follows "$2,548,837,000;" and inserting in lieu thereof "and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year.".*

### *WATER QUALITY PRIORITY*

*SEC. 18. Section 216 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.".*

### *COST EFFECTIVENESS*

*SEC. 19. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:*

### *"COST EFFECTIVENESS*

*"SEC. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or which is used for ultimate disposal of residues resulting from such treatment; and water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.*

*"(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.*

*"(c) In furtherance of the policy set forth in subsection (a) of this section, the Administrator shall require value engineering review in connection with any treatment works, prior to approval of any grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of such treatment works, in any case in which the cost of such erection, building, acquisition, alteration, remodeling, improvement, or extension is projected to be in excess of $10,000,000. For purposes of this subsection, the term 'value engineering review' means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.*

*"(d) This section applies to projects for waste treatment and management for which no treatment works including a facilities plan for such project have received Federal financial assistance for the*

*preparation of construction plans and specifications under this Act before the date of enactment of this section.".*

### *STATE CERTIFICATION*

*Sec. 20. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:*

### *"STATE CERTIFICATION OF PROJECTS*

*"Sec. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance under this title, the Administrator shall approve or disapprove such application within 45 days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within 45 days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.".*

### *MUNICIPAL COMPLIANCE DEADLINE*

*Sec. 21. (a) Section 301(i) of the Federal Water Pollution Control Act is amended by striking out "July 1, 1983," each place it appears and inserting in lieu thereof "July 1, 1988,". The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 301(b)(1) (B) or (C) of the Federal Water Pollution Control Act beyond schedules for compliance in effect as of the date of enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983.*

*(b) Section 301(b)(2)(B) of the Federal Water Pollution Control Act is repealed.*

### *OCEAN DISCHARGES*

*Sec. 22. (a) Section 301(h) of the Federal Water Pollution Control Act is amended in the portion preceding paragraph (1) by striking out "in an existing discharge".*

*(b) Such section 301(h) is amended by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and by striking out paragraph (8).*

*(c) Such section 301(h) is further amended by adding at the end thereof the following: "A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters.".*

*(d) Section 301(j)(1) of the Federal Water Pollution Control Act is amended by striking out clause (A) and inserting in lieu thereof the following new clause:*

*"(A) subsection (b)(1)(B) under subsection (h) of this section shall be filed not later that the 365th day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981;".*

*(e) The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.*

### *SECONDARY TREATMENT DEFINITION*

*SEC. 23. Section 304(d) of the Federal Water Pollution Control Act is amended by adding the following new paragraph:*

*"(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.".*

### *REVISED WATER QUALITY STANDARDS*

*SEC. 24. The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Federal Water Pollution Control Act shall be completed by the date three years after the enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. No grant shall be made under title II of the Federal Water Pollution Control Act after such date until water quality standards are reviewed and revised pursuant to section 303(c), except where the State has in good faith submitted such revised water quality standards and the Administrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt.*

### *NEEDS SURVEY*

*SEC. 25. The Administrator of the Environmental Protection Agency shall submit to the Congress, not later than December 31, 1982, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 516(b) of the Federal Water Pollution Control Act, including an estimate of the total cost and the amount of Federal funds necessary for the construction of needed publicly owned treatment facilities. Such report shall be prepared in the same manner as is required by such section and shall reflect the changes made in the Federal water pollution control program by this Act and the amendments made by this Act. In preparing this report, the Administrator shall give emphasis to the effects of the amendment made by section 2(a) of this Act in addressing water quality needs adequately and appropriately.*

### *JUDICIAL NOTICE*

*SEC. 26. It is the sense of Congress that judicial notice should be taken of this Act and of the amendments to the Federal Water Pol-*

*lution Control Act made by this Act, including reduced authorization levels under section 207 of such Act, and that the parties to Federal consent decrees establishing a deadline, schedule, or timetable for the construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions.*

### *BATH TOWNSHIP*

*SEC. 27. For purposes of the Federal Water Pollution Control Act, the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allocated to the State of Michigan under such Act in an amount equal to the amount such works would be eligible for under section 202 of such Act if such works were to be constructed after the date of enactment of this Act, at the original construction cost.*

And the Senate agree to the same.

JAMES J. HOWARD,
ROBERT A. ROE,
JAMES L. OBERSTAR,
BOB EDGAR,
ROBERT A. YOUNG,
BUDDY ROEMER,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
WILLIAM F. CLINGER,
*Managers on the Part of the House.*
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
PETE V. DOMENICI,
SLADE GORTON,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
DANIEL MOYNIHAN,
*Managers on the Part of the Senate.*

# JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

## SHORT TITLE

### *House bill*

Provides that the Act may be cited as the "Federal Water Pollution Control Act Amendments of 1981".

### *Senate amendment*

Provides that the Act may be cited as the "Clean Water Act Amendments of 1981".

### *Conference substitute*

Act may be cited as the "Municipal Wastewater Treatment Grant Construction Amendments of 1981".

## INNOVATIVE AND ALTERNATIVE PROCESSES

### *House bill*

Amends section 201(g)(5) of the basic Act to require the applicant to study and evaluate various innovative and alternative technologies taking into account and providing for, to the extent practical, the most efficient use of energy and resources which will result in the lowest net cost of water and sewer service to the consumer, including production of usuable water through a production treatment process if the savings offset increased costs of the process.

### *Senate Amendment*

No comparable provision.

*Conference substitute*

Authorizes a grant for a project in San Diego, California, which will result in a low net cost for water and sewer service to the consumer.

### INDUSTRIAL COST EXCLUSION

*House bill*

Repeals section 201(k) of the Federal Water Pollution Control Act. Section 201(k) provides that no grant made after November 15, 1981, for construction of a publicly owned treatment works shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow equivalent to 50,000 gallons per day of sanitary waste.

*Senate amendment*

Amends section 201(k) of the basic Act to provide that no step 3 construction grant may be made to treat, store, or convey industrial wastewater in excess of existing flows from industrial users.

*Conference substitute*

Makes section 201(k) of the basic Act, relating to industrial costs, inapplicable in view of amendments to the reserve capacity provisions of section 204(a)(5).

### CAPITAL FINANCING PLANS

Directs the Administrator to encourage and assist applicants for grant assistance to develop and file with the Administrator capital financing plans which will at a minimum, project the applicant's requirements for waste treatment for at least 10 years; project the nature, extent, timing and costs of necessary expansion and reconstruction of treatment works within the applicant's jurisdiction; and set forth the manner in which the applicant intends to finance such expansion and reconstruction.

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as House bill.

### ALLOTMENT FORMULA

*House bill*

Provides that the fiscal year 1982 grant funds shall be allotted by the Administrator not later than the tenth day after the date of enactment of the Act.

Also extends the existing formula for allotment of construction grant funds among the States through fiscal year 1982.

*Senate amendment*

Establishes a new allotment formula that allots funds on the basis of 1980 population and backlog needs in categories I, II, and IVb, also maintains the minimum State share, and has a descending hold harmless provision included in the formula.

*Conference substitute*

Uses House formula for fiscal year 1982 and for fiscal years 1983, 1984, and 1985 uses the average of the House formula and the Senate formula for fiscal year 1984.

### STATE ADMINISTRATION GRANTS

*House bill*

Provides that for fiscal year 1982 not to exceed 4 percent of the total amount authorized for construction grants is authorized to be reserved for making grants to States for the costs of administering provisions of the Act relating to the grants program which have been delegated to the States.

*Senate amendment*

Requires that a State's grant for administration of the program be tied directly to the amount of unexpended obligations made but not actually disbursed, plus unobligated allotment funds available to that State at the beginning of a fiscal year.

*Conference substitute*

Same as the House bill through fiscal year 1985.

### INNOVATIVE AND ALTERNATIVE TECHNOLOGY FEDERAL SHARE

*House bill*

This section extends the set-aside for increasing the Federal grant share from 75 to 85 percent for innovative and alternative technology through fiscal year 1982. It also amends the existing 3 percent mandatory set-aside to provide that the set-aside shall be not less than 3 percent nor more than 5 percent. The amount of any increase between 3 and 5 percent will be at the determination of the Governor of the State.

*Senate amendment*

Amends section 202(a)(2) of the basis Act to provide that municipal treatment works utilizing innovative or alternative treatment processes shall be funded at a rate 20 percentage points more than conventional treatment processes, but in no event greater than 85 percent of the cost of construction. It also removes the statutory deadline for utilization of these practices for Federal funding under the construction grant program.

Amends section 205(i) of the basic Act to continue the use of a minimum of one-half of one percent of a State's allotted funds for the increased Federal share (that percentage which is over the Federal share for conventional systems). Also increases from three percent to four percent a State's mandatory set-aside of allocated funds in each fiscal year for innovative and alternative treatment systems.

*Conference substitute*

Similar to Senate amendment. The amount of the mandatory set-aside is established between 4 and 7½ percent as determined by the Governor of the State.

Innovative or alternative unit processes and techniques are made eligible for the increased Federal share. These processes and techniques represent the provisions contained in existing EPA regulations.

### BRAND NAMES

*House bill*

Amends section 204(a)(6) of the basic law to strike the requirement that if a bid specification prepared by a sewage treatment plant grantee includes a specific brand name item, it must include a second brand name, followed by the words "or equal". This language is replaced by a requirement for "one brand name or equal" in situations where it is impractical or uneconomical to make a clear and accurate description of the technical requirements.

*Senate amendment*

Same as House bill.

*Conference substitute*

Same as House bill and Senate amendment.

### WATER QUALITY MANAGEMENT PLANNING

*House bill*

Amends section 205 of the Federal Water Pollution Control Act by adding a provision which creates a set-aside of one percent of each State's allotted grant funds or $100,000, whichever amount is greater, to be used to make grants to the States to carry out water quality management planning. This planning is to include the identification of the most cost-effective and locally acceptable measures for treatment works and non-point sources to meet and maintain water quality standards; the development of an implementation plan to obtain State and local financial and regulatory commitments to implement such measures; and the determination of the nature, extent and causes of water quality problems in various areas.

*Senate amendment*

Section 205(g) of the basic Act is expanded to designate an additional one-half of one per centum of a State's unexpended obligations and unobligated allotment, or $100,000, if greater for water quality management assistance.

*Conference substitute*

Same as House bill, except the reserved amount is not to exceed one percent of the sums allotted and available for obligation, and planning is also to include determination of those publicly owned treatment works which should be constructed, and implementation of section 303(e) of the Act.

### NEW YORK CONVENTION CENTER

*House bill*

This section directs the Administrator to allot to the State of New York from fiscal year 1982 funds an amount necessary to pay the cost of conveying sewage from the Convention Center of the City of New York to the Newtown Sewage Treatment Plant in Brooklyn.

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as House bill.

### AUTHORIZATIONS

*House bill*

Provides an authorization of $2.4 billion for the construction grant program for fiscal year 1982.

*Senate amendment*

Amends section 207 of the basic Act by authorizing not to exceed $2.4 billion annually for the construction grant program for fiscal years 1982 through 1985.

*Conference substitute*

Same as Senate amendment.

Section 206 of the Federal Water Pollution Control Act provides a mechanism for the reimbursement of communities which proceed with construction of treatment works at their own expense if the treatment works meet all of the requirements of the Act. This enables communities to save money by moving ahead before Federal funds are available and thus avoiding the increased costs associated with inflation. This provision of the Act, however, has not been funded in Appropriations Acts. This has resulted in an unfortunate and unnecessary increase in cost for the program both to local interests and to the Federal Government.

With the reductions in Federal assistance incorporated in H.R. 4503, it is even more necessary that ways be found to decrease overall costs associated with the reduction of pollution of our nation's waters. Permitting construction at present day prices, with reimbursement later, is one way of doing this. The conferees urge, therefore, that funds be appropriated to implement section 206 so that the cleanup of our waters may proceed in as efficient and economical manner as possible.

### FIELD TESTING

*House bill*

Amends the definition of the term "construction" in section 212 of the Act to include as grant eligible under title II the field testing of innovative or alternative wastewater treatment processes and techniques meeting guidelines promulgated under section 304(d)(3).

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as House bill. It is the intent of the conferees that this provision not become a means for any delay in compliance with the requirements of section 301 of the Act.

### COST EFFECTIVENESS

*House bill*

Expresses the policy of Congress that a project for waste treatment and management undertaken with financial assistance under the Federal Water Pollution Control Act shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of treatment works to meet the requirements of the Act. Also provides that water efficiency measures and devices (conservation measures) are to be considered along with all other alternatives in determining what overall system is most cost-effective.

*Senate amendment*

No comparable provision.

*Conference substitute.*

Same as the House bill. This provision does not in any way override the limitation on eligible categories made by section 2 of this Act.

### VALUE ENGINEERING

*House bill*

Provides the Administrator shall require value engineering review in connection with treatment works before any grant is made in excess of $10,000,000 in order to identify unnecessarily high costs in a project without sacrificing reliability or efficiency.

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as the House bill.

### STATE CERTIFICATION

*House bill*

Provides that where a State has been delegated sufficient authority to administer the construction grants program under title II, the Governor may certify to the Administrator that a grant application meets applicable requirements of State and Federal law. In such a case, the Administrator must approve or disapprove the grant application within 30 days of the date of application. If it is disapproved, the reasons for disapproval must be set forth in writing. If no action at all is taken within 30 days, the grant application is deemed to be approved.

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as House bill, except that approval period is 45 days.

### WATER QUALITY FOCUS

*House bill*

Establishes the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under the Federal Water Pollution Control Act shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management consistent with the public health and water quality goals and requirements of the Act.

*Senate amendment*

Amends section 216 of the basic Act to require that State priority lists contain only eligible projects in an order of precedence reflecting significant public health or water quality benefits, especially projects having the greatest effect on the improvement of water quality.

*Conference substitute*

Amends section 216 of the basic Act to establish the policy set forth in the House bill.

### OCEAN DISCHARGE WAIVERS

*House bill*

Authorizes modifications of best practicable waste treatment technology requirements for ocean dischargers able to meet the same stringent environmental safeguards applicable to modifications of secondary treatment requirements. Deletes from existing law a restriction of eligibility to communities which had ocean discharges on the date of enactment of the 1977 Act, and a requirement, in section 301(j)(1) of the basic Act that applications must be submitted within 270 days of the date of enactment of the 1977 Act. Also removes as redundant a requirement in section 301(h)(8) of the basic Act that construction grant funds available to a community receiving a waiver be used to provide secondary treatment and best practicable waste treatment technology or to carry out the requirements of section 301(h). Clarifies that eligible applicants include communities which have achieved secondary treatment capability. Except for Avalon, California, no waiver for applications made after the date of enactment may be granted for a period of 1 year after the date of enactment.

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as the House bill, except that no permit issued under section 301(h) shall authorize the discharge of sewage sludge into marine waters from outfalls and applications for waivers can be submitted only for one year from the date of enactment. This provision does not affect the Marine Protection, Research, and Sanctuaries Act. The Conferees intend that during the one-year period in which no waivers can be granted, while Congress is further considering amendments to this section, the research project conducted by the National Oceanic and Atmospheric Administration on sludge from the Orange County Sanitation District may continue.

### LEGISLATIVE VETO

*House bill*

Establishes the procedure whereby rules of the Administrator of the Environmental Protection Agency shall be submitted to the Senate and the House and may be disapproved by those bodies in accordance with the procedure which has been established for such disapprovals in the case of other departments and agencies.

*Senate amendment*

No comparable provision.

*Conference substitute*

No comparable provision.

### RESERVE CAPACITY

*House bill*

Retains existing grant assistance for reserve capacity in those projects which are presently receiving Step 2 design or Step 3 construction grant assistance. For projects which have not yet received any grant assistance, or are in Step 1 planning, it would limit such assistance to a reserve capacity representing 10 years of projected growth. The 10 years would be measured from the date of the first application for grant assistance.

*Senate amendment*

Section 204(a)(5) of the basic Act is amended to preclude the use of Federal construction grant funds for the construction of treatment work facilities in excess of current population or backlog needs except in limited instances.

Projects which have received approval to proceed with the engineering and design of a facility before September 30, 1981, and one segment of which receives a construction grant prior to October 1, 1983, shall receive the full Federal share for reserve capacity contemplated in the design phase and approved by the Administrator. A project shall receive Federal assistance for reserve capacity even if the project receives a phased or segmented construction grant prior to October 1, 1983, provided that the funded phase is for a legitimate portion of the treatment works.

*Conference substitute*

Beginning October 1, 1984, no grant may be made for a project to provide capacity in excess of needs existing on the date of award of a step 3 grant, and in no event in excess of needs existing on October 1, 1990.

This limitation does not apply to any project or to a subsequent segment of phase of treatment systems (comprised of primary, secondary, or advanced waste treatment and related interceptors) that receives a step 3 grant award prior to October 1, 1984.

If a step 3 grant is approved before October 1, 1984, for a step I, II, or IVb category of a treatment system, then subsequent grants for all of of these categories shall provide for 20 year reserve capacity and, in certain instances, for up to 40 years reserve capacity for interceptors.

### ELIGIBLE CATEGORIES

*House bill*

Retains Federal grant assistance for presently eligible categories for all projects currently receiving assistance under the Act. For new projects which have not yet received any Federal assistance, up to 30 percent of a State's yearly allotment under the Act, as determined by the Governor, could be used for categories such as correction of combined sewer overflows, sewer rehabilitation, and construction of qualifying collector systems. For all projects, correction of infiltration/inflow problems would remain grant eligible where it represents a cost-effective alternative.

*Senate amendment*

Amends section 202(a)(1) of the basic Act to place a limitation on eligible categories of waste treatment facilities which may receive Federal assistance in the future. The eligible categories will be secondary treatment, more stringent than secondary treatment, and new interceptors and appurtenances. These correspond to categories I, II, and IVb of the Needs Survey updated every two years by the Environmental Protection Agency. This eliminates Federal funding of categories such as new collection systems, replacement and rehabilitation of sewers, combined sewer overflow systems, and correction of infiltration-inflow problems.

*Conference substitute*

For grants approved prior to October 1, 1984, all categories would be eligible. For grants awarded after October 1, 1984, only categories I, II, IIIa and IVb would be eligible. After October 1, 1984, up to 20 percent of a State's allotment in any fiscal year may, in the Governor's discretion, be used for categories of projects not otherwise eligible. Where a project encompasses eligible categories (as well as otherwise ineligible categories funded out of the 20 percent fund) only the cost of the otherwise ineligible categories will be counted against the 20 percent fund. The eligible categories will be funded out of monies available other than the discretionary fund.

### COMBINED SEWER OVERFLOWS

*House bill*

No comparable provision.

*Senate amendment*

Amends section 202(a) of the basic Act to permit the use of construction grant funds for the construction of collector sewers in existing communities of less than 3,500 population for a limited period of time and certain larger existing communities which have received grants for collector sewer construction prior to October 1, 1981.

Section 202(a) is also amended to provide in paragraph (7)(A) that a Governor may use a portion of his allotment for treatment of combined sewer overflows upon demonstrating to the Administrator that the water quality goals of the Act will not be achieved without such treatment. The demonstration shall at a minimum prove that significant usage of the water for shellfishing and swimming will not be possible without correction of combined sewer overflows.

Paragraph (7)(B) provides that the Administrator, upon the demonstration of need by the Governor of a State, may fund the necessary facilities to correct combined sewer overflows where the receiving waters will not be improved by other methods of wastewater treatment. It is restricted to those facilities discharging into bays and estuaries.

The Administrator is authorized to utilize $200 million annually to correct combined sewer overflows into marine bays and estuaries. The authorization is not effective until fiscal year 1983. The minimum water quality demonstration for paragraph (7)(B) is the same as (7)(A).

*Conference substitute*

Same as paragraphs (7)(A) and (7)(B) as proposed to be added to section 202(a) of the basic Act by the Senate amendment.

### DEFINITION OF SECONDARY TREATMENT

*House bill*

No comparable provision.

*Senate amendment*

Section 304(d) of the basic Act is amended by adding a new paragraph permitting the use of biological treatment facilities such as oxidation ponds, lagoons and ditches, trickling filters, and devices to treat waste waters from combined storm and sanitary sewers, as the equivalent of secondary treatment if it can be proven that water quality will not be adversely affected by such methods.

*Conference substitute*

Same as Senate amendment, except that the reference to combined storm and sanitary sewers is deleted.

### JUDICIAL NOTICE

*House bill*

States that it is the sense of Congress that judicial notice be taken of the amendments to the Federal Water Pollution Control Act and the other provisions contained in the House bill and that the parties to Federal consent decrees establishing a schedule for construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions.

*Senate amendment*

Expresses the sense of the Congress that courts in supervision of court orders for non-complying municipalities take cognizance of the amendments contained in the Senate amendment in their consideration of modifications to water pollution control deadlines.

*Conference substitute*

Same as House bill.

### NEEDS SURVEY

*House bill*

Directs the Administrator of EPA to submit to Congress not later than June 30, 1982, a new report of the costs of meeting the requirements of the Federal Water Pollution Control Act as amended by the House bill for discharges of municipal waste. This is the so-called "needs" survey which EPA is required to submit to Congress every two years. In preparing this report, the Administrator is to give emphasis to the effects of section 18 of the bill in addressing water quality needs adequately and appropriately.

*Senate amendment*

Supplements section 516 of the basic Act by adding a requirement that the Environmental Protection Agency submit a report to the Congress within eighteen months of enactment of this legislation. The report must identify publicly owned treatment works not yet in complaince with the secondary treatment goals of the Act. It must also contain an assessment of the impact of the 1981 amendments on the cost of completing the Federal construction grant program, and the remaining Federal costs necessary to complete the program.

*Conference substitute*

Combination of both House bill and Senate amendment. This report is due by December 31, 1982.

### MITIGATION ELIGIBILITY

*House bill*

Requires the Administrator of EPA to make a grant to mitigate adverse impacts arising from construction of a grant eligible treatment works from the State's allotment if the State determines that the proposed works are necessary for mitigation of impacts associated with the construction of the treatment works, that the proposed works are grant eligible and that the step II construction grant on the underlying grant eligible treatment works was made no later than February 1, 1981.

*Senate amendment*

Amends section 201 of the basic Act to authorize the Administrator to make a grant from California's allotted funds for the project specified in the order WQG 81-1 of the California State Water Resources Control Board.

*Conference substitute*

Same as the Senate amendment with the addition of a provision relating to the Eureka, California, wetlands mitigation, as well as the San Diego project discussed earlier.

### BATH TOWNSHIP

*House bill*

Provides that the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allotted to the State of Michigan in an amount equal to the amount such works would be eligible for under the Act if the project had been constructed with Federal grant assistance. The amount to be paid would be limited to the appropriate Federal share of the actual construction cost at the time it was originally constructed.

*Senate amendment*

No comparable provision.

*Conference substitute*

Same as House bill.

### GRANTS FOR STEPS 1 AND 2

*House bill*

No comparable provision.

*Senate amendment*

Amends section 201 of the basic Act by providing for Federal reimbursement to grantees for the costs of planning (step 1) and design (step 2) of wastewater treatment facilities only after awards for actual construction (step 3) have been approved, rather than in advance as is currently authorized. This requirement will take effect on October 1, 1981.

Authorizes States to establish a revolving fund from not more than 10 percent of their annual construction grant funds allotment to be used to advance planning and design money to potential grant applicants who would otherwise be unable to perform such work.

The Administrator of the Environmental Protection Agency is required to determine the average cost of such planning and design based on the total projects in the general program experience. Planning and design costs usually average between seven and ten percent of total project costs. The cost associated with infiltration-in-flow analysis and examination of the need for sewer rehabilitation will be eligible for reimbursement.

If a construction grant is awarded following such an advance to a grantee, the Administrator shall subtract the estimated cost of planning and design from the grant to transfer to the State for replenishment of the revolving fund. In the event no construction grant is made, the State is authorized to seek repayment from the applicant on such terms and conditions as that State determines.

*Conference substitute*

Same as Senate amendment, except that the State is required to advance money for planning or design to small communities which would otherwise be unable to perform such work, but is not required to establish a revolving fund for that purpose. Money subtracted from a construction grant where an advance was made shall remain in the State's allotment. Where a State or other non-Federal interest has funded Step 1 or Step 2, it would be eligible for reimbursement under this provision.

### FEDERAL SHARE

*House bill*

No comparable provision.

*Senate amendment*

Provides for the gradual reduction of the Federal share of wastewater treatment facilities from 75 percent through fiscal year 1981 to 65 percent through fiscal year 1984 and 55 percent thereafter. It will not affect grants which had approved step 2 grants prior to September 30, 1981. Municipalities which had voter approved bonds prior to July 1, 1981, and which receive a construction grant prior to July 1, 1985, shall receive a 75 percent grant.

Any treatment facility for which bonds have been approved before July 1, 1981, and which proceeds to construction prior to July 1, 1985, shall receive 75 percent of the cost of a facility from the Federal Government.

*Conference substitute*

Until October 1, 1984, the grant amount for eligible projects shall be 75 percent of the cost of construction.

Beginning October 1, 1984, the grant amount for eligible projects shall be 55 percent of the cost of construction. However, where a grant for construction of a primary, secondary, or advanced waste treatment facility and related interceptors or for correction of infiltration-in-flow was awarded prior to October 1, 1984, all subsequent segments and phases of such facility, related interceptors, and infiltration-in-flow correction shall be 75 percent of the cost of construction.

### COMBINED STEP 2 AND 3 GRANTS

*House bill*

No comparable provision.

*Senate amendment*

Amends section 203(a) of the basic Act to raise the estimated cost limitation on small projects for combined step II and III grants from $4 million to $8 million and eliminates the $5 million limitation from projects in high construction cost areas.

*Conference substitute*

Same as Senate amendment.

### ENGINEERING CERTIFICATE OF OPERABILITY

*House bill*

No comparable provision.

*Senate amendment*

Amends section 204 of the basic Act to require that the prime consultant to a grantee remain on the site for one year following start-up to certify to the Environmental Protection Agency and the appropriate grantee agency that the treatment works is in compliance with its permit, and to allow the main partners responsible for a treatment works to work cooperatively in making sure that it is meeting its discharge permits. This activity will be grant eligible.

*Conference substitute*

Same as Senate amendment.

### REVISION OF WATER QUALITY STANDARDS

*House bill*

No comparable provision.

*Senate amendment*

Requires the review, revision, and adoption or promulgation of revised or new water quality standards within three years after enactment of the 1981 amendments.

After three years, no grant will be made unless this effort has been completed and approved by the Administrator. The sole exception to this is the situation of a State acting in good faith and submitting the necessary documentation to the Administrator and not receiving notification of action within 120 days of such submission.

*Conference substitute*

Same as Senate amendment, except that all references to total maximum daily loads of pollutants is eliminated.

### MUNICIPAL COMPLIANCE DEADLINE

No comparable provision.

*Senate amendment*

Amends section 301(i) of the basic Act to extend the July 1, 1983, deadline for the uniform achievement of municipal secondary treatment to July 1, 1988. Repeals section 301(b)(G)(3).

*Conference substitute*

Same as Senate amendment.

### HUDSON RIVER PCB'S

*House bill*

No comparable provision.

*Senate amendment*

Amends section 116(b) of the basic Act to clarify that funds are allocated under section 205(c) and not section 205(a).

*Conference substitute*

No comparable provision.

### FEDERAL COMMON LAW

*House bill*

No comparable provision.

*Senate amendment*

Amends section 511 of the basic Act to provide that the Act does not displace or limit other Federal or State law, including common law.

*Conference substitute*

Contains no comparable provision with the understanding of the conferees that failure to include this provision is without prejudice and is not intended to displace remedies other than those under the Federal Water Pollution Control Act and with an agreement to examine further in the next session the best means to accomplish this intent.

James J. Howard,
Robert A. Roe,
James L. Oberstar,
Bob Edgar,
Robert A. Young,
Buddy Roemer,
Don Clausen,
Gene Snyder,
John Paul Hammerschmidt,
William F. Clinger,
*Managers on the Part of the House.*
Robert T. Stafford,
John H. Chafee,
Pete V. Domenici,
Slade Gorton,
Jennings Randolph,
George J. Mitchell,
Daniel Moynihan,
*Managers on the Part of the Senate.*

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# HOUSE DEBATE ON H.R. 4503

*October 27, 1981*
(Congressional Record, vol. 127, part 19, 25377-25407)

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## FEDERAL WATER CONTROL POLLUTION ACT AMENDMENTS OF 1981

**Mr. ROE.** Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Roe).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

**Mr. WYLIE.** Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 4, answered "present" 1, not voting 46 as follows:

[Roll No. 279]

YEAS—382

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Brown (OH)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd

Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Washington
Watkins
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—4

Dorgan
McDonald
Mitchell (MD)
Young (AK)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—46

Applegate
Beard
Bethune
Biaggi
Bouquard
Burton, John
Campbell
Carman
Chisholm
Clay
Danielson
DeNardis
Dougherty
Early
Fithian
Florio
Fuqua
Goldwater
Gray
Hansen (UT)
Holland
Jones (NC)
Kemp
LeBoutillier
Leland
Lowery (CA)
Marlenee
McKinney
Moffett
Pashayan
Rahall
Rhodes
Richmond
Roberts (KS)
Santini
Savage
Schulze
Shuster
Smith (PA)
Stangeland
Stark
Swift
Udall
Wampler
Waxman
Williams (MT)

□ 1300

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4503, with Mr. STRATTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. ROE) will be recognized for 30 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. ROE).

**Mr. ROE.** Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. HOWARD).

(Mr. HOWARD asked and was given permission to revise and extend his remarks.)

**Mr. HOWARD.** Mr. Chairman, I rise in support of H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981.

The present program to improve the quality of our waters derives from the Federal Water Pollution Control Act Amendments of 1972. That act is one of the great landmarks of environmental legislation. It established as goals the reduction, and ultimately the elimination, of discharges of pollutants from municipal sewage systems and industrial plants. An interim goal, set for July 1, 1983, was to achieve, wherever attainable, fishable and swimmable water quality.

Two primary mechanisms were established to accomplish these goals. First, industries and municipalities were required to treat their wastes to clearly definable minimum levels based on the application of treatment technologies. Second, for municipalities, a program of 75 percent Federal grant assistance was established for treatment works. Since 1972 significant progress has been made in the removal of pollutants. With regard to municipal waste treatment over 20,000 grants have been awarded in approximately 10,000 sewage jurisdictions. However, fewer than 3,000 projects have been completed. The majority of funds have gone to projects which are still under design and construction. For this reason we can expect substantial further improvements in water quality as all of these plants are completed.

The administration has proposed that the program be drastically changed in essentially three respects. Grants would be made only for secondary and more advanced treatment and new interceptor sewers. No grants would be made for reserve capacity in projects. And finally, States would be directed to give the highest priority to projects in urban-industrial areas.

The bill reported by our committee represents the culmination of the fine efforts of the chairman of our water resources subcommittee, the gentleman from New Jersey, Mr. ROBERT A. ROE; the ranking minority member of that subcommittee, the gentleman from Arkansas, Mr. JOHN PAUL HAMMERSCHMIDT; and the other subcommittee members. I also want to express my appreciation to the ranking minority member of the full committee, the gentleman from California, Mr. DON H. CLAUSEN, for his usual fine efforts in enabling us to achieve a truly bipartisan bill in the great tradition of our committee.

H.R. 4503 represents a responsible approach to the need for changes in the grants program brought about by existing budgetary constraints. It provides for a reduced Federal role in the construction of new treatment projects. It authorizes the appropriation of only $2.4 billion in 1982, a figure consistent with the reconciliation act and the administration's position. It also recognizes the absolute necessity of avoiding total disruption in the case of projects under design and construction. It does this by grandfathering these projects with regard to grant eligibility. Without such a provision, communities would be forced to enter the bond market to raise funding for projects already under way in order to make up for a cutback in Federal funding. Our bill gives communities the necessary time to adjust.

Mr. Chairman, H.R. 4503 is a good bill and a responsible bill which meets the needs both of the Federal Water Pollution Control Act and current budgetary consideration.

I urge passage of the bill.

□ 1315

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Kentucky.

(Mr. PERKINS asked and was given permission to revise and extend his remarks.)

Mr. PERKINS. Mr. Chairman, I wish to compliment the distinguished gentleman from New Jersey (Mr. HOWARD) as chairman of the committee, for bringing this bill to the floor. This legislation is needed and deserves the support of the entire membership of this committee.

I also would like to compliment the gentleman from New Jersey (Mr. ROE), the chairman of the subcommittee.

This is deserving legislation and should be passed.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Washington.

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. Mr. Chairman, I want to commend the chairman of the full committee and the distinguished chairman of the subcommittee and the ranking members for an outstanding bill. I have been deeply concerned about the fact that we did not have anything in the budget for 1982 for the construction grants program. I think the gentleman's statement clearly indicates the concern of this committee, and the Members' interest in rectifying that omission. I hope the Appropriations Committee can move quickly after this bill is authorized to get an appropriation bill in place for 1982 or we are going to do substantial damage around the country.

Most of you have heard me speak before on the issue facing us today. I have long been concerned that we move quickly to reauthorize and fund the construction grants program.

We have the chance today to adopt the first step in that process. I hope you will join me in supporting the committee's bill.

This bill provides the administration's requested $2.4 billion funding level. It achieves this goal by making some timely and necessary reductions in the scope of the program. But it maintains our national commitment to clean water.

We began our efforts to clean up America's rivers, lakes, and streams with the Federal Water Pollution Control Act of 1972, and we have made real progress since that time.

The program has been modified and improved to give States more control and a greater number of options in meeting the federally mandated water quality standards since its adoption in 1972.

Unfortunately, the program has been subject to many stops and starts along the way. Many of the problems associated with the construction grants program can be traced to the uncertain nature of its funding and its changing eligibility requirements.

There is no question that we must provide wastewater treatment capacity to communities in order to allow them to grow. Though sewers are not an exciting topic, without them, there can be no local development. And wide fluctuations in the program severly hamper the planning efforts of those communities.

Towns and cities across the Nation are experiencing delays in building necessary treatment facilities because of a lack of action here in Congress in reauthorizing and refunding the construction grants program. As of September 30, more than 30 States had exhausted virtually all of their Federal construction allotment. Costly delays are occurring in many of our districts. We need to act soon to prevent further interruption at the State level.

Quick action is all the more necessary when you realize that this bill is just the first of three difficult and time-consuming steps which must be taken before localities will have money to spend. The step we take today will reauthorize the construction grants program. It restricts eligibility, and therefore cuts the total cost of the program.

Following this step, we must act on a supplemental appropriation of $2.4 billion, and must raise the budget ceiling to accommodate that funding.

Neither of these steps will be easy in the current budgetary climate.

But they are necessary if we are to provide important Federal assistance to local communities to construct the wastewater treatment systems which are vital to their futures.

I hope you will join me today in approving the committee's bill, so we can move on in the process of helping communities meet Federal water quality standards.

Mr. HOWARD. I thank the gentleman for his remarks. I would say the gentleman is absolutely correct. There were no funds included in the first budget resolution or Reconciliation Act for this program. We were told by the administration there could be $2.4 billion, which is a decrease from past years, provided that certain "reforms" were made. The committee members on both sides did an extremely commendable job in trying to balance the few dollars that we have, comparatively, for water pollution control in this country and to bring this bill to the floor. I thank the gentleman for his comments.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Chairman, I am very pleased to give my strong support for H.R. 4503 as reported by the Committee on Public Works and Transportation. This legislation is the result of many days of hearings and extensive efforts by members of the Committee on Public Works and Transportation and its water resources subcommittee. The chairman of the subcommittee, the gentleman from New Jersey, has provided outstanding leadership during the development of H.R. 4503. I greatly appreciate the bipartisan cooperation at both the subcommittee and the full committee level and am confident that the same strong bipartisan support will be shown for the bill here in the House.

H.R. 4503 makes valuable changes in the construction grants program and authorizes the $2.4 billion that the President desires for this program in fiscal year 1982.

The incentive to develop this legislation comes directly from the administration, and for that, they are strongly to be commended. By requiring legislative action before continued funding and by submitting substantive proposals earlier this year, an excellent basis for review was provided. From these administration initiatives, the bill before us has been developed using input from agencies, States, municipalities, and many knowledgeable organizations and individuals, during numerous hearings.

The construction grants program is an important cornerstone of the Water Pollution Control Act. It provides Federal assistance to aid municipalities in meeting the rigorous and worthwhile goals of that act. Since 1972, $5 billion per year has been authorized for the construction grants program. About $3 billion per year has actually been appropriated. This funding has been used to provide 75 percent Federal grants for water pollution control projects throughout the Nation.

Many positive contributions have resulted from the expenditure of these funds. Since 1972 there has been a 65-percent improvement in the amount of pollutants removed from the Nation's wastewater. This has cut dramatically the pollution of our rivers and lakes. Many of the projects which have begun under this program have yet to be completed. When they are, the rivers and lakes of America will show even higher water quality.

I want to be clear, however, that there are problems which have plagued the program since its inception. Some of the problems date back prior to the Water Pollution Control Act Amendments of 1972, but others are a result of burdensome and often unneeded regulations and procedures which have created a bureaucratic quagmire that has bogged down progress. Some changes can be made administratively, and regulatory reform is underway at EPA to make these improvements. Even with better management of the program, other changes need to be made through legislation.

The construction grants program was originally meant as short-term aid to municipalities to help them reach the stringent goals of the Water Pollution Control Act. Because of funding and other program delays, the end of the program is not yet in sight. Changes which have been made since 1972 and changes which are contained in H.R. 4503 will enable States and municipalities eventually to take back their preeminent role in providing wastewater treatment.

H.R. 4503 represents the changes that the Committee on Public Works and Transportation recommends in order to make $2.4 billion available to the program as soon as possible during fiscal year 1982. I am especially pleased that the bill limits the authorization to only $2.4 billion for 1 year as the President has requested.

I must clarify one point which has, in some cases, been confused as a budget or program implication of H.R. 4503. It is not. I am afraid there has been some misunderstanding about the term "Federal exposure". It must be understood from the outset that this is not Federal cost, not Federal authorization, not Federal obligation, not even Federal commitment. It is an estimate, based on figures over which there is a good deal of disagreement, of the national needs for water pollution control works that could be eligible for Federal funding up to 20 years in the future. The figures are based on a needs survey conducted by EPA every 2 years.

States and localities estimate the amount of treatment works that they need now and in the near future. It is not directly related to water quality concerns and is, in fact, primarily an accounting procedure.

Nonetheless, it is important to avoid giving States and municipalities the impression that Federal funding will be available in perpetuity to meet all of these localities' described needs. Therefore, there has been a desire to reduce as much as possible the total exposure, as it has been called. This exposure has been reduced in H.R. 4503 by about half. There are several reasons that it is difficult to reduce the exposure much further, although we will continue to seek equitable ways to do so. The most important one is that States and municipalities need flexibility in determining which types of projects are most needed to meet their particular needs. By giving this kind of flexibility in how funds are used, it is inevitable that the potential exposure is larger. I think this is acceptable, and in fact desirable, so long as it is made clear to all concerned that there should be no false expectations of perpetual Federal appropriations for the program. The fact is that the Congressional Budget Office confirms that the total cost, the only cost, of H.R. 4503 is $2.4 billion, exactly what the President has requested and less than half the annual authorized amount of the past 10 years.

I believe that, on a somewhat lighter side, we may all learn a valuable lesson from the following, which is a most accurate yet amusing "exposure" of this issue. It is by an anonymous, but keenly thoughtful, poet:

### Ode to Exposure

Just when we thought we'd mastered the terms
Of the budgeting process, a mean can of worms,
With budget authority, not to mention outlays,
And reconciliation to plague us these days,
Along comes a new word, a standard, a test,
For a bill to be held to along with the rest.

Exposure, it's called, and if that's imprecise,
It's a way of condemning a new form of vice.
If a program's to run for a number of years,
Exposure's the term to conjure up fears,
Though a measure will fit with the budget resolution,
As does our bill on water pollution.

If we don't pare the program and options foreclose,
Some day down the road we'll indecently expose
The national treasury to ruin, disaster,
To the drain of each dollar, sou, pfennig, piaster.

The scenario's awesome, that much I'll allow,
Though exposure exponents don't tell us just how,
The one-year bill our committee's just writ,
Will in profligate fashion the nation commit
To spend one thin dime more than we oughter,
To finish the job of assuring clean water.

Exposure is not a Federal cost.
You can do it for years, not a cent will be lost.
Not a cent does it authorize or appropriate,
Commit, reserve, expend, obligate.
"Exposure to what," one with reason might query.
The answer: "An estimate, an odds-maker's theory."

EPA asks the states what they need for what use,
And the numbers come in, as a dunce would deduce,
Somewhat inflated, in a single word "high,"
In hopes of a bigger piece of the pie.
In gross terms they're useful, I'll freely grant that,
But they don't make a peg where I'd hang my best hat.

We've tried in our bill the program to pare,
Though not in response to the exposure scare,
But instead recognition, sensible and sound,
That in future there'll be fewer Federal bucks going round.
So in casting your vote, weigh the merits, results,
Leaving games of exposure to consenting adults.

I would like to mention several provisions of H.R. 4503 that I believe are especially important.

In 1977 the formula by which States receive funds was developed after extensive compromise. There has been no substantive objection to the formula by any State, and I believe this formula has shown itself to be equitable and fair. H.R. 4503 maintains the existing formula for the distribution of funds.

The special needs of small communities, many of which cannot afford to maintain and operate conventional, centralized wastewater systems, are addressed by the continuation of the 4 percent set-aside by States with significant rural population. In addition, the innovative and alternative set-aside program is continued and expanded. This program allows new, less expensive, and more energy efficient systems to receive priority consideration.

The bill increases the percentage of funding to assist States which have been delegated responsibility for administering part of the program. As delegation of responsibility to States increases, State management programs will become increasingly important, especially in times of reduced program funding. With a reduced authorization level, the higher percentage is needed to maintain funding near the current level.

A provision of great importance provides project funding flexibility which is needed because of reduced funding levels. Under the provision, for new projects, up to 30 percent of a State's funds can be used for water pollution treatment needs that would be otherwise ineligible for Federal funding. For example, collector sewers and combined sewers would no longer be eligible for funding unless a grant has been previously received. The 30 percent flexibility can be used at the discretion of a Governor of a State to help meet needs such as these which many States have. This flexibility, combined with grandfathering provisions, provides, I believe, an appropriate transition for the program.

H.R. 4503 contains repeal of the industrial cost exclusion (ICE) provision of the Clean Water Act. The House passed this repeal as part of H.R. 2957 in May of this year. It is included again to insure that it is made part of the construction grants reforms. A report on the effects of the industrial cost exclusion was submitted in March 1981 by the Environmental Protection Agency. That report and hearings held this spring by the Water Resources Subcommittee of the Public Works and Transportation Committee provided a litany of terrible effects this provision would have if allowed to go into effect in November of this year.

The objectionable aspects of ICE and its farreaching negative impacts are clear. Up to 1985, some of the potential effects discussed in the report are:

Four hundred and two communities are affected, mostly older cities and small towns;

Food and kindred products is the major industry affected;

The potential non-Federal share increases by 60 percent on the average;

Instead of eliminating inequities, the ICE provision creates new or worsens existing inequities; and

Small communities will likely suffer the greatest ICE-induced financial burdens.

EPA concludes that ICE will delay construction of wastewater treatment facilities from 1 to 3 years to permit replanning and new financing and that any delay beyond 2 years will result in cost increases greater than the amount which might be saved through ICE. Comments received by EPA on ICE from industries, municipalities, and others have been almost totally (approximately 95 percent) against retaining ICE.

The longer we delay, the longer planning and construction of municipal plants will be delayed and the longer industries will delay decisions on treatment. It is clear that ICE will increase the cost of wastewater treatment facilities because of these delays. At least as important, ICE will probably further delay meeting water quality objectives.

During 2 days of hearings earlier this year, witnesses from municipalities, industries, and organizations provided further substantiation of negative effects of the provision. I am particularly concerned by the fact that it is smaller communities which are most severely harmed. These are communities least able to take on this burden.

I would like to provide a couple of examples from Arkansas, where the potential negative impacts are greater than the national average. The EPA report on ICE notes an $89-per-household cost average for taking over the industrial cost burden. In Arkansas the average is $137 per household. In some communities it is much higher. Fayetteville would have a $255-per-household burden. In Clinton the burden would be more than $2,000 per household, and this is in a community which has an unemployment rate higher than both the State and national rate. Clearly, this burden cannot be tolerated.

It must be emphasized that the great preponderance of evidence that we have received indicates that not repealing ICE will cost Federal, State, and local communities more than it would save. Not repealing ICE creates numerous inequities because municipalities and industries already having joint treatment facilities are not affected by ICE. Not repealing ICE will delay attaining water quality goals. Based on EPA's own report and the extensive testimony our subcommittee received, repeal of ICE is, therefore, in the best interest of the clean water program.

The legislation before us makes a significant addition which can help municipalities deal with their long-term wastewater treatment needs. The new provision provides necessary encouragement and assistance to applicants for development of capital financing plans. The construction grants program helps fund the building of sewage treatment facilities. However, the operation, maintenance, and replacement of these facilities have been and remain the responsibility of municipalities. The municipalities need help to forecast long-term capital needs and plan for future financing to meet the needs. Many local revenue systems only repay past obligations and cover current operating costs. Consideration of major system improvements and rehabilitation must be made, and only long-term financial planning can permit economic self-sufficiency for local sewage treatment programs. The provision directs EPA to cooperate and encourage this planning and to provide appropriate technical assistance. It is an excellent and forward-thinking provision.

H.R. 4503 creates a new set-aside which will improve water quality management planning capability in each

State. One percent of each State's allotment, or $100,000, whichever is greater, will be used by each State to identify, plan, and help implement comprehensive facility and nonpoint source programs. The State would have basic control over the funding and will carry out water quality management planning through entities in the States as much as possible.

It is my understanding that EPA would be expected to provide support and assistance in the program, but would not be able to either withhold funds or dictate procedures. The funding is not discretionary with EPA, but is required to be set aside for water quality management planning. The funds set aside would remain available until expended.

States will develop a plan for the program in cooperation with local, regional and interstate entities and will give funding priority to local and regional comprehensive planning organizations. These organizations, nearest to the planning needs, are often most capable of effectively using these funds. In some States, effective programs exist at the State level that deserve consideration.

There are many water quality problems that cannot be solved by expanded wastewater treatment facilities alone. Coordination and areawide review of new facilities is needed, and nonpoint sources and groundwater problems must be addressed. H.R. 4503 provides support for water quality management planning which is needed to coordinate pollution control efforts and deal with water pollution problems beyond sewage treatment.

Section 15 of H.R. 4503 states a policy that projects should, in the estimation of the State, achieve optimum water quality management consistent with the public health and water quality goals and requirements of the act. This is, of course, most desirable.

It must be stressed that, as was agreed when this amendment was accepted, and as it clearly states, the States are the sole determiner of all aspects of the provision. In no way does this direct new priority list requirements on the State. In addition, EPA shall not use this provision to dictate to the States any requirements. The provision is directed to the States alone, and no regulations, rules, or directives are to be developed or implemented regarding the provision by EPA. The States will use the provision to meet their own public health and water quality needs as they see them.

A very important provision of H.R. 4503 has the potential for very great savings. In 1977, modifications of secondary treatment requirements were allowed in the case of certain coastal communities discharging treated wastewater through ocean outfalls into marine waters. Very stringent environmental safeguards had to be complied with before such modifications could be granted. The provision applied for a very short period of time. Based on hearings by the Committee on Public Works and Transportation, H.R. 4503 removes the limitations while maintaining the environmental safeguards to insure protection of marine ecosystems and public health. GAO in a report on this subject dated May 22, 1981, estimates that up to $10 billion could be saved through expanded use of ocean discharge. EPA itself, in the last week, has estimated up to $6.3 billion in savings from the provision in H.R. 4503.

It is clearly an important program and one which, with the environmental safeguards, will help meet the goals of the Water Pollution Control Act in an an economically rational way.

I again want to commend my colleagues on the Public Works Committee for the excellent job that has been done in developing H.R. 4503. I truly believe this legislation is vital to the Districts of each and every Member of Congress and that each of us can and should vote for its passage.

Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority member of the full Committee on Public Works and Transportation, the gentleman from California (Mr. CLAUSEN).

(Mr. CLAUSEN asked and was given permission to review and extend his remarks.)

Mr. CLAUSEN. Mr. Chairman, I rise in strong support of H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981. This legislation reauthorizes and reforms one of the Nation's most important environmental programs, a program designed to protect and enhance the quality of the water on which so much of our collective well-being depends. The bill is the product of a cooperative and in-depth effort on the part of virtually all of the Public Works Committee's members. It was thus no accident that H.R. 4503 was favorably reported by voice vote of the full committee with no voices raised in opposition.

The chairman of our Public Works Committee, the gentleman from New Jersey (Mr. HOWARD), is to be complimented on the encouragement and leadership that he has once again shown with respect to important legislation like H.R. 4503. Special recognition is warranted for the chairman of our Subcommittee on Water Resources, the gentleman from New Jersey (Mr. ROE), and his ranking Republican counterpart, the gentleman from Arkansas (Mr. HAMMERSCHMIDT). These two very conscientious and capable legislators have spent innumerable hours researching the issues, questioning witnesses, studying options, and crafting the specific provisions that make up H.R. 4503. They have done a remarkably creditable job.

And recognition should also be given to the chairman of our Investigations and Oversight Subcommittee, the gentleman from Georgia (Mr. LEVITAS), and his ranking Republican counterpart, my colleague from California (Mr. GOLDWATER), for the thorough and most productive oversight hearings that they recently completed on EPA'S construction grants program.

Mr. Chairman, H.R. 4503 represents a major step forward in our efforts to fashion a reformed, more efficient, more cost-effective construction grants program. Before I discuss some of the specifics of the committee's bill, I would like to make a couple of general statements about why I believe the committee has taken some of the positions in H.R. 4503 that it has.

First, the administration sent up its construction grants program reform proposals in mid-April. It became apparent that many of the administration proposals were in need of refinement from the standpoint of achieving the program streamlining and reduction in Federal program involvement that were described as the proposals' goals. As the many days of hearings progressed and countless witnesses from all over the Nation testified on the legislation, it become apparent that, while there was general support for moving the program in the direction sought by the administration, there was also a strong consensus among the committee members, that many of the administration's proposals required a measure of modification before being enacted into law. Therefore, the committee worked to adopt the thrust of the administration's proposals while at the same time providing for an adequate level of transition and flexibility for the States and municipalities that are being expected to assume the additional program funding requirements.

The administration's initiative establishing zero fundings for the fiscal year 1982 construction grants program, until enactment of reform legislation, has greatly focused congressional attention on the need to bring our construction grants program more in line with current budget reality and the need to increase State and local roles in the implementation of this program.

The second general point I would like to make is that the committee approached its assignment to fashion construction grants program reforms in a spirit of bipartisanship and cooperation, seeking to develop meaningful program reforms that will strike the necessary balance between important economic and environmental goals. There is no doubt in my mind that we have made major progress in our efforts to achieve that objective.

Permit me now to comment on some of the specifics of H.R. 4503 and to relate those to the administration's proposals in each area.

The committee bill has the effect of substantially reducing the authorization level for fiscal year 1982 for the construction grants program. The administration requested that the $5 billion fiscal year 1982 authorization level for this program, first, be eliminated—which occurred in connection with the reconciliation process—and subsequently increased to $2.4 billion upon enactment of reform legislation. The committee bill authorizes for fiscal year 1982 the exact amount requested by the administration, $2.4 billion. The Senate counterpart bill, by comparison, authorizes $2.4 billion for fiscal year 1982 but $2.6 billion a year for each of fiscal years 1983 through 1985.

The administration asked for a 1-year construction grants program bill in order to be in a position next year to examine the entire Clean Water Act. The committee has responded to that request by authorizing continuation of this program at this time for only 1 year.

The administration proposed total elimination of Federal grant assistance for construction of reserve capacity beyond 1980 population levels. Currently, approximately 20 years reserve capacity is grant fundable for treatment plants and as much as 40 years of reserve capacity can be funded for interceptors. The committee bill strikes a compromise in this area. For projects which are currently in the pipeline and have received either a step II design or step II construction grant, current rules on reserve capacity will continue to apply. For other projects, only 10 years of reserve capacity will be eligible for Federal grant assistance under the construction grants program.

In a similar but different area, the administration proposed total elimination of grant eligibility for a number of currently eligible treatment works categories. These include infiltration/inflow correction, major sewer rehabilitation, collector sewer installation, and correction of combined sewer overflow problems. The committee bill takes a major step toward moving the program in the direction desired by the administration while still providing a level of flexibility and transition believed to be both appropriate and necessary. The committee compromise would permit projects currently receiving construction grants program assistance to continue to operate under current rules for eligible categories. For other projects, the committee accepts the administration's proposal to focus funding on treatment plant and interceptor construction. However, H.R. 4503 permits up to 30 percent of a State's allotment for any given year to be used to construct any category of currently eligible cost-effective treatment works. Under this provision, a State's Governor would retain a necessary measure of discretion to address all types of legitimate water quality problems.

The administration proposed that the act's innovative and alternative set-aside provision be made discretionary rather than mandatory as is currently required. Again, the committee attempted to strike a middle ground designed to continue the necessary emphasis on perfecting innovative and alternative technologies while at the same time providing for an increased level of State discretion. H.R. 4503 permits the Governor of a State to choose what level between 3 and 5 percent is desired to be set aside to encourage and fund innovative and alternative technologies.

With respect to project prioritization, the administration proposal would have put the Federal Government in the position of telling the States what their water quality problems are and how to address them. The committee instead opted to leave unchanged the current provision of the Clean Water Act which states that—

> Notwithstanding any other provision of this act, the determination of the priority to be given to each category for construction of publicly owned treatment works within each State shall be made solely by that State.

Another provision in the committee bill, an amendment adopted during the subcommittee markup, offers great promise of increasing construction grants program cost effectiveness. It provides that water efficiency measures and devices, that is, conservation devices, are to be considered along with other alternatives in determining what overall wastewater treatment system is most cost effective. This provision is designed to encourage examination and optimum use of devices and technologies, like water-saving shower heads and toilets, which use up to 90 percent less water—in some cases—than conventional models. In this way we can better avoid building—and, therefore, paying for—wastewater treatment plants that are larger than they need be.

There are numerous other instances in this legislation in which the committee has attempted to recognize the legitimate concerns that have been raised by the administration with respect to reforming the construction grants program. I am hopeful and even confident that our efforts will be successful in making this important water quality program more cost effective and efficient and that we will be in a position shortly to present legislation to the President of which we will all be proud.

Before closing, allow me to leave you with two thoughts. First, as H.R. 4503 and its counterpart legislation in the Senate have proceeded to move down the legislative track, the two bills have become more similar, not less so. Amendments were offered by the Environment and Public Works Committee, a few by Senator PETE DOMENICI, chairman of the Senate Budget Committee, to perfect some of the administration's proposals dealing with reserve capacity and collector sewer eligibility. In the Public Works and Transportation Committee, amendments were similarly offered and adopted reducing the differences in the two bills. I am confident that this trend will continue as we move into and out of conference on this year's contruction grants program reform legislation.

Second, it must be remembered that, in addition to enactment of reform legislation, there is also the need to have the construction grants program appropriated for fiscal year 1982 and also to have room in the final budget resolution to accommodate the appropriation. The latter two steps await completion of our reform legislation and so it is extremely important that we expedite this effort as much as possible.

Mr. Chairman, H.R. 4503 is a good bill. It reforms the construction grants program while at the same time providing for the necessary transition and flexibility for purposes of phasing in these reforms. I am pleased to be able to urge all of our colleagues here today to join in passing this major environmental legislation.

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. ROE asked and was given permission to revise and extend his remarks.)

Mr. ROE. Mr. Chairman, I am pleased to bring to the floor today H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981.

This bill is the result of very extensive hearings and deliberation by our Subcommittee on the Construction Grants Program of the Environmental Protection Agency. It is truly a bipartisan effort and I wish to commend the ranking minority member of the subcommittee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for his usual fine support. I also wish to express my deep appreciation to the gentleman from New Jersey, the chairman of the full committee (Mr. HOWARD) for his excellent leadership and the ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN) for his excellent contributions and support.

Public Law 92-500, the Federal Water Pollution Control Act Amendments of 1972 is one of the most important pieces of environmental legislation ever passed by the Congress. It provided for an intensive effort to reduce and ultimately eliminate the discharge of pollutants into our Nation's waters. To accomplish this, it set increasingly stringent standards for discharges of industrial and municipal wastes. For municipal wastes, it required secondary treatment by 1977 and the application of best practicable waste water treatment technology by 1983. The 1977 date for secondary treatment was later extended to 1983 for those communities which were unable to meet the date because of a lack of Federal funding. In connection with these new requirements for secondary and best practicable treatment, the act provided a 75-percent Federal grant share for construction of publicly owned treatment works. The grants were to be available for such categories as secondary treatment, more stringent treatment, infiltration/inflow correction, major sewer system rehabilitation, new collector sewers and appurtenances, and correction of combined sewer overflows.

Since 1972, significant progress has been made in the removal of pollutants from municipal discharges. In the next few years even more improvements will be seen since the majority of the construction grants funds to date have gone to projects which are still under design and construction. The continuation of our efforts to control the pollution of our waters is vital not only to the health and well-being of our citizens, but to our Nation's economy as well.

Earlier this year, the administration proposed drastic changes in the construction grants program. This was coupled with an announcement that fiscal year 1982 funding would not be supported unless the Congress passed legislation making changes in the program. Also, as part of this process, the Reconciliation Act reduced the fiscal year 1982 funding to zero with the provision that $2.4 billion would be authorized in the event that legislative changes are enacted into law.

The administration's bill would modify the program in three basic respects. First, it would limit Federal grant assistance to secondary and more advanced treatment and new interceptor sewers. Second, it would eliminate grant assistance for the inclusion of reserve capacity in a treatment system while leaving unchanged the requirement in the law for inclusion of such capacity. Finally, States would be directed to give the highest priority to projects in urban-industrial areas.

Mr. Chairman, we have prepared a chart which shows the reductions in the amount of Federal participation, expressed as a percentage of each State's total needs as shown in the 1980 EPA needs survey, under the administration's proposal. I ask unanimous consent that this table be inserted into the RECORD at this point in my remarks.

ADMINISTRATION PROPOSAL—EPA CONSTRUCTION GRANTS PROGRAM STATE NEEDS AND REAL FEDERAL SHARES

[Dollars in millions]

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| | Total I–V | Total I, II, IV(B) | Total I, II, IV(B) backlog | Federal share I–V | Federal share I, II, IV(B) | Federal share I, II, IV(B) backlog | Col. 5 as percent of col. 1 | Col. 6 as percent of col. 1 |
| Alabama | $903 | $533 | $238 | $677 | $400 | $178 | 44.3 | 19.7 |
| Alaska | 507 | 424 | 248 | 380 | 318 | 186 | 62.7 | 36.7 |
| Arizona | 606 | 477 | 151 | 454 | 356 | 113 | 58.7 | 18.6 |
| Arkansas | 496 | 339 | 146 | 372 | 154 | 110 | 51.2 | 22.2 |
| California | 6,773 | 4,742 | 2,300 | 5,080 | 3,556 | 1,725 | 52.5 | 25.5 |
| Colorado | 1,006 | 785 | 93 | 754 | 589 | 70 | 58.5 | 7.0 |
| Connecticut | 1,734 | 569 | 480 | 1,300 | 427 | 360 | 24.6 | 20.8 |
| Delaware | 499 | 227 | 75 | 374 | 170 | 56 | 34.1 | 11.2 |
| District of Columbia | 442 | 8 | 8 | 331 | 6 | 6 | 1.4 | 1.4 |
| Florida | 4,907 | 3,500 | 1,057 | 3,680 | 2,625 | 793 | 53.5 | 16.2 |
| Georgia | 1,679 | 1,010 | 354 | 1,259 | 758 | 266 | 45.1 | 15.8 |
| Hawaii | 818 | 557 | 272 | 614 | 418 | 204 | 51.1 | 24.9 |
| Idaho | 509 | 302 | 132 | 382 | 226 | 99 | 44.4 | 19.4 |
| Illinois | 4,529 | 1,926 | 1,378 | 3,397 | 1,444 | 1,034 | 31.9 | 22.8 |
| Indiana | 4,027 | 736 | 440 | 3,020 | 552 | 330 | 13.7 | 8.2 |
| Iowa | 1,259 | 753 | 506 | 944 | 565 | 380 | 44.9 | 30.2 |
| Kansas | 1,134 | 649 | 332 | 850 | 487 | 249 | 42.9 | 22.0 |
| Kentucky | 2,459 | 1,029 | 393 | 1,844 | 772 | 295 | 31.4 | 12.0 |
| Louisiana | 1,148 | 771 | 297 | 861 | 577 | 223 | 50.3 | 19.4 |
| Maine | 1,524 | 345 | 279 | 1,143 | 259 | 209 | 17.0 | 13.7 |
| Maryland | 3,031 | 1,093 | 658 | 2,273 | 820 | 494 | 27.1 | 16.3 |
| Massachusetts | 4,719 | 1,664 | 1,360 | 3,539 | 1,248 | 1,026 | 26.4 | 21.7 |
| Michigan | 4,953 | 2,223 | 1,601 | 3,715 | 1,667 | 1,201 | 33.7 | 24.2 |
| Minnesota | 1,563 | 1,013 | 650 | 1,172 | 760 | 488 | 48.6 | 31.2 |
| Mississippi | 844 | 629 | 302 | 633 | 472 | 226 | 55.9 | 26.8 |
| Missouri | 2,752 | 1,638 | 1,089 | 2,064 | 1,229 | 817 | 44.7 | 29.7 |
| Montana | 252 | 96 | 32 | 189 | 72 | 24 | 28.6 | 9.5 |
| Nebraska | 362 | 255 | 138 | 272 | 191 | 104 | 52.8 | 28.7 |
| Nevada | 242 | 197 | 76 | 182 | 148 | 57 | 61.2 | 23.6 |
| New Hampshire | 1,295 | 582 | 399 | 971 | 437 | 299 | 33.7 | 23.1 |
| New Jersey | 6,468 | 2,796 | 1,641 | 4,850 | 2,097 | 1,231 | 32.4 | 19.0 |
| New Mexico | 194 | 157 | 62 | 146 | 118 | 46 | 60.8 | 23.7 |
| New York | 18,331 | 5,076 | 4,145 | 13,748 | 3,807 | 3,109 | 20.8 | 17.0 |
| North Carolina | 1,740 | 1,235 | 589 | 1,305 | 926 | 442 | 53.2 | 25.4 |
| North Dakota | 86 | 52 | 13 | 64 | 39 | 10 | 45.3 | 11.6 |
| Ohio | 6,373 | 2,387 | 1,249 | 4,780 | 1,790 | 937 | 28.1 | 14.7 |
| Oklahoma | 624 | 421 | 138 | 468 | 316 | 104 | 50.6 | 16.7 |
| Oregon | 1,252 | 613 | 195 | 939 | 460 | 146 | 36.7 | 11.7 |
| Pennsylvania | 7,786 | 2,074 | 1,288 | 5,839 | 1,556 | 966 | 20.0 | 12.4 |
| Rhode Island | 979 | 301 | 284 | 734 | 226 | 213 | 23.1 | 21.8 |
| South Carolina | 871 | 560 | 179 | 653 | 420 | 315 | 48.2 | 36.2 |
| South Dakota | 252 | 176 | 71 | 189 | 132 | 53 | 52.4 | 21.0 |
| Tennessee | 1,854 | 1,087 | 490 | 1,391 | 815 | 368 | 44.0 | 19.8 |
| Texas | 4,392 | 3,426 | 708 | 3,600 | 2,570 | 531 | 58.6 | 12.1 |
| Utah | 400 | 309 | 198 | 300 | 232 | 174 | 58.0 | 44.0 |
| Vermont | 445 | 149 | 123 | 334 | 112 | 92 | 25.2 | 20.7 |
| Virginia | 1,968 | 1,163 | 764 | 1,477 | 872 | 573 | 44.3 | 29.1 |
| Washington | 3,125 | 1,607 | 614 | 2,344 | 1,205 | 460 | 38.6 | 19.7 |
| West Virginia | 1,866 | 546 | 450 | 1,399 | 410 | 338 | 22.0 | 18.1 |
| Wisconsin | 2,271 | 1,511 | 1,225 | 1,703 | 1,133 | 919 | 49.9 | 40.5 |
| Wyoming | 150 | 128 | 35 | 113 | 96 | 26 | 64.0 | 17.3 |
| American Samoa | 58 | 48 | 40 | 44 | 36 | 30 | 62.1 | 51.7 |
| Guam | 24 | 24 | 19 | 18 | 18 | 14 | 75.0 | 58.3 |
| Marianas | 62 | 42 | 24 | 47 | 32 | 18 | 51.6 | 29.0 |
| Puerto Rico | 1,186 | 750 | 495 | 889 | 562 | 371 | 47.4 | 31.3 |
| Pacific Trust Territories | 109 | 74 | 41 | 82 | 56 | 31 | 51.4 | 28.4 |
| Virgin Islands | 47 | 32 | 23 | 35 | 24 | 17 | 51.1 | 36.2 |
| Total | 119,898 | 55,813 | 30,593 | 89,924 | 41,860 | 22,946 | 34.9 | 19.1 |

Note.—I—secondary treatment, II—more advanced treatment, III—infiltration/inflow correction, replacement and rehabilitation, IVA—collector sewers, IVB—interceptor sewers, and V—combined sewer overflow correction.

Roman numerals in the table represent the various categories of treatment works presently eligible for grant assistance. Category I is secondary treatment; category II is advanced treatment; category III is infiltration/inflow correction and sewer replacement and rehabilitation; category IV(A) is new collector sewers; category IV(B) is new interceptor sewers; and category V is correction of combined sewer overflow problems. Column 1 indicates each State's total needs. Column 2 indicates the total needs for the categories which would be eligible for grant assistance under the administration bill. Column 3 indicates the backlog included in the figures in column 2. Backlog represents the needs for 1980 population levels, without reserve capacity. Column 4 shows the 75-percent Federal share for all categories under existing law. Column 5 shows the 75-percent Federal share for categories I, II and IV(B), including reserve capacity. Column 6 shows the Federal share of the backlog associated with categories I, II and IV(B)—excluding reserve capacity. Column 7 shows what the Federal share would be if only categories I, II and IV(B) were eligible for assistance, including reserve capacity. Finally, column 8, which is the most important column, shows what the actual Federal grant percentage of the State's needs would be under the administration proposal with only categories I, II and IV(B) eligible for assistance and with reserve capacity not eligible for assistance. This table demonstrates vividly the amount of the cost of this program which would be transferred to State and local governments.

Enactment of such a proposal would cause untold hardship in communities throughout the country. The reason for this is that EPA does not award a single grant for an entire project, rather grants are awarded for segments of projects. In addition, separate grants are given for step 1, planning; step 2, design; and step 3, construction. It is not at all unusual for a project to have a step 3 grant for construction of a particular element, such as an outlet works, and also have a step 2 grant for design of other parts of the system. A change in grant eligibilities without an appropriate transition period would place communities in a position of having immediately to raise additional revenues to make up for a cutback in Federal assistance in order to complete unfinished projects.

Our committee is not prepared to accept such a situation. We feel it is imperative that a reduction in Federal assistance be fashioned in such a manner as to avoid total disruption in the construction of vitally needed treatment works. For this reason, our bill grandfathers projects which are presently receiving assistance under the Federal Water Pollution Control Act. For new projects our bill limits the eligible reserve capacity to 10 years, as opposed to the minimum of 20 years now generally accepted. It also reduces grant assistance for categories other than treatment plants and interceptor sewers for new projects. It does, however, continue grant eligibility for correction of infiltration/inflow problems where this is shown to be the most cost-effective approach and allows a Governor, at his discretion, to use up to 30 percent of a State's total allotment on other categories of treatment works. This provides necessary flexibility to the States in meeting their particular sewer treatment problems.

Following is a section-by-section analysis of the bill:

### Section-by-Section Analysis

Section 1 provides that the act may be cited as the "Federal Water Pollution Control Act Amendments of 1981".

Section 2 amends Section 201(g)(5) of the Federal Water Pollution Control Act. This section provides that the Administrator of EPA, shall not make any grants for the construction of treatment works unless the grant applicant has demonstrated that innovative and alternative waste water treatment processes and techniques have been fully studied and evaluated by the applicant. The techniques which must be studied and evaluated include the reclaiming and reuse of water, recycling technologies, land treatment and the confined disposal of pollutants so that pollutants will not migrate to cause water or other environmental pollution.

Section 2 adds the requirement that grant applicants also study and evaluate the net cost of potable water and sewer service to the consumer which would result from innovative and alternative technologies which would provide potable drinking water as part of the wastewater treatment process.

Section 3 repeals Section 201(k) of the Federal Water Pollution Control Act. Section 201(k) is the Industrial Cost Exclusion provison which eliminates federal grant assistance for treatment plant capacity to treat the flow of any industrial user in excess of a flow per day equivalent to 50,000 gallons per day of sanitary waste. Repeal of Section 201(k) was included in H.R. 2957 which passed the House on May 28, 1981.

Section 4 directs the Administrator to encourage and assist applicants for grant assistance to develop and file with the Administrator capital financing plans which, at a minimum, will project the applicant's requirements for waste treatment for 10 years; project the nature, extent, timing and costs of necessary expansion and reconstruction of treatment works within the applicant's jurisdiction; and set forth the manner in which the applicant intends to finance such expansion and reconstruction.

Section 5 in subsection (a) provides that the Fiscal Year 1982 grant funds shall be allotted by the Administrator not later than the tenth day after the date of enactment of this act.

Subsection (b) extends the existing formula for allotment of construction grant funds among the States through Fiscal Year 1982.

Subsection (c) extends through fiscal year 1982 the provision that no State shall receive less than one-half of one percentum of the total allotment.

Section 6 provides that for fiscal year 1982 not to exceed 4 percent of the total amount authorized for construction grants ($2.4 billion) is authorized to be reserved for making grants to States for the costs of administering provisions of the Act relating to the grants program which have been delegated to the States. Existing law provided for a reservation of 2 percent of the total authorization ($5 billion) which came out to $100 million a year for administration. The percentage for Fiscal Year 1982 is changed to 4 percent to reflect the reduced funding level of $2.4 billion for that year and to assure that close to $100 million per year will still be available in order to allow continued management of the program by participating States at a stable level.

Section 7 extends the set-aside for increasing the federal grant share from 75 to 85 percent for innovative and alternative technology through fiscal year 1982. It also amends the existing 3 percent mandatory set-aside to provide that the set-aside shall be not less than 3 percent nor more than 5 percent. The amount of the increase between 3 and 5 percent will be at the determination of the Governor of the State.

Subsection (b) of Section 7 extends the authority for the increased federal share for innovative and alternative technology through fiscal year 1982. It also amends the innovative and alternative technology provision to provide that any component of a treatment project is eligible for the increased share if that component is innovative. The law presently requires that a significant portion of the treatment works utilize innovative and alternative technology. The purpose of the amendment is to encourage development of innovative and alternative components.

Subsection (c) of Section 7 removes the existing prohibition in the law against providing the higher federal grant share for innovative and alternative technology relating to collector and interceptor sewers, major sewer rehabilitation, and combined storm and sanitary sewers. This prohibition discourages the development of innovative and alternative technology in these areas and is, therefore, considered inappropriate.

Section 8 modifies the requirement that two brand names or equal be listed in a proprietary specification for bids by providing that when it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used.

Section 9 directs the Administrator to reserve, each fiscal year, not to exceed 1 percent of the amount authorized for construction grants, or $100,000, whichever amount is greater. These reserved sums are to be used by the Administrator to make grants to the States to carry out water quality management planning. This planning is to include, but not be limited to, the identification of cost effective and locally acceptable facility and nonpoint measures to meet and maintain water quality standards; the development of an implementation plan to obtain State and local financial commitments to implement these measures; and a determination of the nature, extent and causes of water quality problems in various areas of the State.

Section 10 directs the Administrator to allot to the State of New York from fiscal year 1982 funds an amount necessary to pay the cost of conveying sewage from the Convention Center of the City of New York to the Newtown Sewage Treatment Plant in Brooklyn. This provision was included in H.R. 2957 which passed the House May 28, 1981.

Section 11 provides an authorization of $2.4 billion for the construction grants program for Fiscal Year 1982.

Section 12 provides that field testing of innovative and alternative waste water treatment processes and techniques shall be eligible for grant assistance under the Act in order to encourage the development of such processes and techniques and to better insure that they will perform as planned.

Section 13 expresses the policy of Congress that a project for waste treatment and management undertaken with financial assistance under the Federal Water Pollution Control Act shall be considered as an overall waste treatment system for waste treatment and management and shall be that system which constitutes the most economical and cost effective combination of treatment works to meet the requirements of the Act. It also provides that water efficiency measures and devices (conservation measures) are to be considered along with all other alternatives in determining what overall system is most cost effective.

It provides that the Administrator, before approving any Step 3 construction grant for treatment works, must determine that the overall project of which the treatment works are a part is the most cost effective combination of treatment works to meet the requirements of the Act. This section applies to new projects which have not yet received any Federal assistance and to projects which are in the Step 1 planning phase. It does not apply in cases where a Step 2 engineering design or a Step 3 construction grant has been approved.

Section 14 is designed to expedite the consideration of grant applications and to eliminate duplication of effort by EPA and the States. It provides that where a State has been delegated sufficient authority to administer the construction grants program under Title II, the Governor may certify to the Administrator that a grant application meets applicable requirement of State and Federal law. In such a case the Administrator must approve or disapprove the grant application within 30 days. If it is disapproved, the reasons for disapproval must be set forth in writing. If no action at all is taken within 30 days, the grant application is deemed to be approved. This provision should also have the effect of encouraging States to seek increased delegation of administration of Title II of the Act in order to be eligible for the expedited grant approval process.

Section 15 states that it is the policy of Congress that projects for waste water treatment and management undertaken with Federal financial assistance under the Water Pollution Control Act shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management consistent with the public health and water quality goals and requirements of the Act.

Section 16 amends Section 301(h) of the Federal Water Pollution Control Act which relates to ocean discharges of municipal wastes. Presently Section 301(h) allows the Administrator, with the concurrence of the State, to issue a discharge permit under Section 402 of the Act which allows the discharge into ocean waters of effluent which has received less than secondary treatment. A number of limitations are included in this section which have decreased its effectiveness. It is applicable only to ocean outfalls existing at the time the 1977 amendments were adopted and for which a permit was applied for within 270 days after the date of enactment of the 1977 amendments.

This section of the bill removes the limitation that the outfall must have existed as of the date of enactment of the 1977 amendments. It also, in connection with this, removes the requirement that application for a permit be made within 270 days after the enactment of the 1977 Act.

In addition, Section 16 removes as redundant a requirement in Section 301(h)(8) that grant funds be used consistent with requirements in Title II by a community receiving a variance. Finally, the bill restates the original Congressional intent that communities which have achieved secondary treatment are eligible to apply for and receive the variance.

Section 17 deals with reserve capacity. Under existing law, adequate reserve capacity, generally 20 years, is required to be included in publicly owned treatment works and this reserve capacity is eligible for grant assistance. The Administration has recommended the elimination of grant assistance for reserve capacity. Its proposal would limit Federal assistance to treatment capacity required to meet 1980 population levels.

This section would retain existing grant assistance for reserve capacity in those projects which are presently receiving Step 2 design or Step 3 construction grant assistance. For projects which have not yet received any grant assistance, or are in Step 1 planning, it would limit such assistance to a reserve capacity representing 10 years of projected growth. The 10 years would be measured from the date of the first application for grant assistance.

Section 18 deals with categories of treatment works which are eligible for grant assistance. Present law provides assistance for treatment plants, interceptor and collector sewers, correction of inflow/infiltration problems, rehabilitation of sewers, and correction of combined sewer overflow problems. The Administration's proposal would limit grant assistance to treatment plants and interceptor sewers.

This section retains federal grant assistance for presently eligible categories for all projects currently receiving assistance under the Act. For new projects which have not yet received any Federal assistance, up to 30 percent of a State's yearly allotment under the Act, as determined by the Governor, could be used for categories such as correction of combined sewer overflow problems, and sewer rehabilitation. For all projects, correction of infiltration/inflow problems would remain grant eligible. This would provide increased discretion to the States in deciding how their money should be spent to meet their particular problems.

Section 19 states that it is the sense of Congress that judicial notice be taken of the amendments to the Federal Water Pollution Control Act and the other provisions contained in H.R. 4503, and that the parties to Federal consent decrees establishing a schedule for construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions. This is designed to encourage consideration of the impact of reduced funding levels on the scheduled completion dates of projects under a consent decree.

Section 20 directs the Administrator of EPA to submit to Congress not later than June 30, 1982, a new report of the costs of meeting the requirements of the Federal Water Pollution Control Act for discharges of municipal waste as amended by our bill. This is the so-called "needs" survey which EPA is required to submit to Congress every two years. This section will provide Congress with a revised estimate of needs reflecting the changes in the program made by the bill. In preparing this report, the Administrator is to give emphasis to the provisions of Section 8 of the bill in addressing water quality needs adequately and appropriately.

Section 21 provides that the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allotted to the State of Michigan in an amount equal to the amount such works would be eligible for under the Act if the project had been constructed with Federal grant assistance. Bath Township was compelled to proceed with this project by court order with its own funds at a time when Federal funds were being impounded. Had it not been for these most unusual circumstances, the project would have been constructed with the usual 75-percent Federal share. This section is designed to correct this inequity.

Mr. Chairman, this bill is a 1-year bill so that we may examine the program in greater detail next year. It appropriates $2.4 billion for fiscal year 1982, an amount consistent with the Reconciliation Act and the administration's position. It recognizes the need to reduce Federal involvement in the program while maintaining stability and avoiding unnecessary disruption. It is a sound bill and a responsible one. I urge passage of the bill.

□ 1330

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. CLINGER), a member of the committee.

(Mr. CLINGER asked and was given permission to revise and extend his remarks.)

Mr. CLINGER. I rise in support of H.R. 4503, and I would like to also extend my congratulations to my chairman, the gentleman from New Jersey (Mr. ROE), the ranking minority member, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), as well as the chairman of the full committee, the gentleman from New Jersey (Mr. HOWARD), and the ranking minority member, the gentleman from California (Mr. CLAUSEN), for what I think is a well-crafted and outstandingly good bill, which is going to continue the commitment of this country to cleaning up the Nation's waters.

Mr. Chairman, the Federal Water Pollution Control Act Amendments of 1981, H.R. 4503, restructures the program to aid the construction of sewage treatment projects.

Under current law, five categories of projects are eligible for construction grants providing a 75-percent Federal share. The legislation we are now considering continues this commitment for projects now in the planning, design, and construction stages.

In the future, however, under the administrative proposal several categories involving new projects would not be eligibile for the Federal share. In particular, projects involving collector systems would be constructed without benefit of construction grants program aid.

Mr. Chairman, in our deliberations on this bill in both the Subcommittee on Water Resources and the Committee on Public Works and Transportation, we discussed thoroughly the demands for sewage treatment facilities in the future. The point was made that rural areas rely heavily on collector systems, and that the construction grants to modernize these systems are just now showing results.

Under H.R. 4503, the mandatory 4-percent set-aside for States with significant rural populations will be continued to allow small and rural communities to develop less costly alternatives to conventional treatment works. In addition, the existing 3-percent set-aside that States must spend on innovative and alternative technologies could be increased up to 5 percent by the Governor of a State.

Nevertheless, I think attention must be drawn to the special needs of rural areas. We have heard a great deal about the intention to direct the reduced Federal aid toward urban areas. Indeed, those categories that remain eligibile for the 75-percent Federal share suggest that this trend is in the making.

Mr. Chairman, in this regard, it must be made clear that economic development ranks high on the agenda of rural areas. But according to a recent National Governors Association publication entitled "America in Ruins," a survey of 6,870 communities reveals that nearly half of the wastewater treatment plants are operating at 80-percent capacity or higher. As a rule of thumb, writes author Pat Choate:

> When a community wastewater treatment system is operating at 80-percent capacity, that community will not be able to add additional industrial load. This is particularly true for smaller communities where the 20 percent of excess capacity will, in quantitative terms, represent limited treatment abilities.

The point is this: If we are to rely on economic development to bolster growth and create jobs, underlying ability to expand must be provided. An adequate sewage treatment facility is integral to any such expansion.

H.R. 4503 would continue eligibility for a 75-percent share to construct collector systems, through its provision allowing up to 30 percent of a State's allotment to be used for any currently eligible categories. A high priority should be given to allocating the State allotment toward meeting rural needs.

The need for adequate sewage treatment facilities in rural areas is critical; an evenhanded approach in apportioning discretionary funds under the construction grant program is necessary to balance the trend of favoring urban areas.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. Levitas).

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

Mr. LEVITAS. Mr. Chairman, I rise in strong support of this legislation, and I want to pay special tribute to the chairman of the subcommittee and the ranking minority member, who have done so much and brought so much knowledge and information to bear on this very vital subject of providing the necessary funds and improvements in a program which lies at the heart of maintaining our quality of life and the environmental protection which the people of his country need. I would also like to commend the leadership of the chairman of the full committee, the gentleman from New Jersey (Mr. Howard), and the ranking minority member, the gentleman from California (Mr. Clausen), who have demonstrated their commitment to the importance of this program.

Mr. Chairman, there are few things which we Americans take more for granted than the opportunity to drink clean water and the belief that our streams and rivers and lakes should be free from pollution, because it is fundamental to our quality of life. And yet we do take it for granted. But the American people know that it does not come automatically. It takes programs such as the one we are considering today to make it possible.

I think the committee, by formulating a 1-year bill, has made a move in the right direction. Most of the work that has been done in the past has been successful. Nevertheless, as our oversight investigations have shown, there is room for improvements, and those improvements and changes can be made. And when we come back next year to deal with this program, this committee will bring out a bill that will provide the long-term, long-range, predictable funding that is necessary. But in the meantime, we cannot bring a halt to those plants which are under construction and need to go forward to clean up our rivers and our streams and our lakes in order to enhance the environmental quality of this Nation.

Therefore Mr. Chairman, we have got to recognize that, simply eliminating funding, or even dramatically reducing funding, does not make the pollution disappear. We certainly do not want to see additional property taxes and rates skyrocket, yet we might if we do not pass this legislation. This legislation is important for the people of America. It is not this committee's bill; it is not Mr. ROE's bill; it is not Mr. HAMMERSCHMIDT's bill. It is the bill that will provide the necessities of life for the people of America. No administration, whether it is this one or any former or future administration, can hold hostage legislation which is devoted to cleaning up the waters of this Nation.

Therefore, Mr. Chairman, I hope that the Members of this House will give not just support but overwhelming and resounding endorsement of this important piece of legislation and the excellently crafted bill which has been reported to the House.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California, Hon. GLENN ANDERSON.

(Mr. ANDERSON asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON. Mr. Chairman, I rise to join with my colleagues in expressing my strong support for this significant piece of legislation, H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981.

As you know, this important measure would authorize $2.4 billion for fiscal year 1982 for the Federal wastewater treatment plant construction program. I commend our Water Resources Subcommittee chairman, Hon. ROBERT A. ROE, and our ranking minority member of the subcommittee, Hon. JOHN PAUL HAMMERSCHMIDT, for their tireless efforts in producing such a fine bill. And, of course, commendations are in order for our full committee chairman, Hon. JIM HOWARD, and the ranking member of the full committee, Hon. DON CLAUSEN, for their many contributions to this legislation.

Of particular interest to me is language contained in sections 2 and 16 of the bill.

Section 2 amends section 201(g)(5) of the Federal Water Pollution Control Act. As stated in the committee report for H.R. 4503, section 201(g)(5) provides that—

> The Administrator of EPA shall not make any grants for the construction of treatment works unless the grant applicant has demonstrated that innovative and alternative wastewater treatment processes and techniques have been fully studied and evaluated by the applicant. The techniques which must be studied and evaluated include the reclaiming and reuse of water, recycling technologies, land treatment and the confined disposal of pollutants so that pollutants will not mitigate to cause water or other environmental pollution. In studying and evaluating these technologies, the applicant is to take into account and provide for, to the extent practical, the more efficient use of energy and resources. Section 2 modifies this provision to require the applicant to study and evaluate these various innovative and alternative technologies taking into account and providing for, to the extent practical, the most efficient use of energy and resources which will result in the lowest net cost of water and sewer service to the consumer.

Mr. Chairman, this consumer-oriented language was submitted by the city of San Diego because of its need to import nearly 100 percent of its water. The cost, and as importantly, the diminishing supply of ground and river water in California, has led San Diego to plan for a wastewater-to-potable water recycle system. The city's research shows that traditional secondary treatment is less expensive than other more advanced techniques of effluent treatment. And, that the vascular plant, reverse osmosis technology that San Diego proposes for its recycle system will be more expensive. Yet, the product of the recycle system will be not only treated sewage, but also potable water. And this water will be much less expensive to the consumer than that currently imported. The point is that while the sewage treatment side of San Diego's recycle system will be more costly than conventional secondary treatment, the potable water side will be much cheaper, and the net result will be very economical for the consumer. This section of the bill requires that applicants from communities which rely on costly imported water conduct studies and evaluate wastewater treatment systems which not only are energy and resource efficient but will also give the consumer a financial break.

Section 16 clarifies original congressional intent that eligible applicants for ocean discharge waivers include communities which have achieved secondary treatment capability. Briefly, the Clean Water Act of 1977 allows the Environmental Protection Agency—EPA—to grant waivers to publicly owned wastewater treatment facilities so that they can discharge primary treated municipal waste into the marine environment when it can be shown that costly secondary treatment is not necessary. The EPA, however, misinterpreted congressional intent on this matter by excluding communities from obtaining a waiver if they were already meeting secondary treatment requirements—even in cases where primary treatment is both cost effective and environmentally sound.

The city of Avalon, which happens to be located within my congressional district, is one such community that was forbidden to apply for an EPA waiver because they were already achieving secondary treatment. A May 22 Government Accounting Office—GAO—report to the Congress entitled, "Billions Could Be Saved Through Waivers for Coastal Wastewater Treatment Plants," states that Avalon "appears to be ideally suited for a waiver and could sutstantially benefit from the resulting reduced O. & M. expenses." In its recommendations to Congress, the GAO believes that we should "indicate that the waiver provision is not intended to preclude communities already achieving secondary treatment from obtaining waivers in cases where primary treatment is both cost effective and environmentally sound."

It is important to note that on page 17 of the committee report (No. 97-270) it states that—

> With respect to communities which have achieved secondary treatment, the legislative history of (sic) 1977 Act clearly demonstrates that such communities were to be eligible to apply for and receive variances under section 301(h). EPA's regulations denying eligibility to such communities were successfully challenged in one U.S. Court of Appeals. Section 16 of the bill affirms the original congressional intent with regard to this matter. This will remove any doubt as to the eligibility of communities such as Avalon, California, which, as noted by GAO, "appears to be ideally suited for a waiver and could substantially benefit from the resulting reduced O. & M. costs."

□ 1345

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. OBERSTAR).

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Chairman, during markup of this bill, the committee approved an amendment I offered, section 9, to set aside 1 percent of the construction grant funds for State and areawide water quality management activities. The purpose and the specific language of section 9 is to build upon the over 200 water quality management plans now in existence, which EPA has approved over the past several years.

These plans were developed at considerable expense to Federal, State, and local governments, plans which have proven extremely useful in defining the extent and nature of water pollution problems, and in developing the intergovernmental cooperation necessary to begin solving them.

I offered the amendment for two reasons:

First, to underscore the need for continued planning. Planning is necessary not only when we have an abundance of Federal funds, as we have had in the past several years, but especially is it necessary in times of reduced Federal budgets and reduced availability of funding for pollution control activities. Then more than ever do we need to plan to use those funds wisely and the most effectively.

The 1 percent set-aside would be used by local planning agencies to help determine the most cost-effective, most efficient pollution control measures for both point and nonpoint sources.

It would help States and localities move more toward self-sufficiency in implementing such pollution abatement activities and help them identify the precise nature and causes of pollution in various areas and the solutions to those problems.

Second, I believe very strongly that we have to do this kind of planning at the local government level where the problems are, where the solutions must be devised and carried out, and where the planning expertise exists.

Section 9 recognizes that goal and provides local public comprehensive planning organizations the financial means of setting priorities in water quality management.

I want to emphasize that this area of wastewater management planning is not a new program. It is not something that we have invented. It is an activity that has been carried on intensively for the past 10 years, and more than that, going back to the initial program in 1956.

Area wastewater planning agencies have been doing this work and doing it effectively and successfully. I just feel that in the future we are going to need more work of this kind because more of the burden of pollution control is going to be shifted to the State and local government level.

If that is going to happen, then we must provide those agencies with the financial tools necessary to carry out that very considerable role.

With less than half the original construction grant funds authorization to be available in future years, now is not the time to zero out our support for planning; in fact, we need responsible planning and priority setting more than ever, and I am pleased that local planning authority and funding have been reestablished in this bill.

In conclusion, I want to commend the chairman of the subcommittee, the gentleman from New Jersey (Mr. ROE), a recognized national expert in the field of water pollution abatement for the splendid job he has done literally living with this legislation since the beginning of the year, skillfully guiding it to this point on the floor.

There were occasions when it looked as though perhaps we were not going to have a pollution control program for the future and I commend the gentleman for his relentless efforts and leadership to assure that the program will survive.

Mr. ROE. Mr. Chairman, I yield 3

minutes to the distinguished gentleman from Pennsylvania (Mr. Edgar).

(Mr. EDGAR asked and was given permission to revise and extend his remarks.)

Mr. EDGAR. Mr. Chairman, I would like to commend the ranking minority member and the ranking majority member of the Subcommittee on Water Resources for their excellent work on this piece of legislation.

Let me, in the limited time I have, make four observations about this bill, H.R. 4503, to amend the Water Pollution Control Act amendments.

I believe that the water issue is the next major crisis that our Nation will face, and with the limitation of Federal dollars and State dollars, I think it is important for us to recognize that we need to develop a national policy as it relates to not only water pollution control, but water supply, the infrastructure needs of our cities, and all of the future needs for water resources.

I think this bill today gives us our first opportunity in the construction grants area to deal with a very important issue that will lead us in future days to additional discussions on what the Nation's water policy needs are.

The second point that I would like to make is that in this legislation, through the efforts of the committee and an amendment which I offered, we provide a study of the need for flexibility. When we addressed the administration's proposal for arbitrary elimination of certain eligible categories, the subcommittee retained eligibility for all funded projects in currently eligible categories while providing up to 30 percent of the States' construction grant funds for certain categories in the future.

No one is sure whether the 30-percent figure of flexibility is the appropriate one, so I offered a further provision directing EPA to study the category needs question in compiling a new needs survey mandated by H.R. 4503.

Another major critical issue and my third point is the fact that this legislation, while it provides funding of $2.4 billion of authorization, will not be sufficient to meet all of our desires in a number of critical areas. We must target these funds to critical needs.

I was successful in placing language within the bill to provide that we target these limited funds to address the public health and water quality needs of our Nation. I think any time when we have limited Federal dollars they must be used both flexibly in areas of need, in the Northeast and Midwest for reconstruction and rehabilitation, in the Sun Belt areas for new cities and new communities, and new basic infrastructure needs, but they must also be targeted to address current water quality needs and public health requirements.

Finally, just a word about the administration's proposal. President Reagan said he would not request any sewer construction grant funds unless there was basic reform. I think this legislation is reform. I think environmentalists, the committee, the construction industry can be proud that they have joined together in putting a piece of legislation together that I hope the administration can accept and to which it can commit the $2.4 billion of appropriations.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. Coughlin), a member of the Appropriations Committee and a member who has had a keen interest for a long time about cleaning up the waters of this Nation.

(Mr. COUGHLIN asked and was given permission to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Chairman, I commend the Members of the House Public Works Committee for bringing H.R. 4503 to the House floor. The members of the committee have worked long and hard on these needed amendments.

As all of us in the Chamber realize, the wastewater treatment construction program is, for all practical purposes, out of money today. Several weeks into this new fiscal year, many States throughout the Nation are without any funds to continue the design or construction of wastewater treatment plants. Other States are left without sufficient funds to continue their wastewater treatment efforts.

The need for this legislation is, therefore, imperative. It must be expeditiously passed and a compromise formulated with the Senate to insure that a final bill is sent to the President for his signature.

As a Member of the House Appropriations Subcommittee on HUD/Independent Agencies, I am very well acquainted with the problems associated with this program. At the same time, however, I am aware of the impact zero-funding in fiscal year 1982 will have on our Nation's commitment to clean its waters. Our subcommittee has pledged to provide the administration's announced $2.4 billion in wastewater treatment funds once needed reforms are signed into law. In fact, as part of the fiscal year 1982 continuing appropriations resolution, the conferees inserted language in the report affirming their intention to use the first legislative vehicle available to provide adequate funding for this needed program.

I remain concerned that a disruptive and costly funding lapse might occur if appropriate authorizing legislation is not enacted promptly and followed immediately by appropriations. I reaffirm my commitment and offer my assistance in any way possible to insure that an authorization and an appropriation bill are enacted. The Congress must not abandon its historic support for our Nation's clean waters or for the program it formulated to clean up these waters.

Mr. HAMMERSCHMIDT. Mr. Chairman, I reserve the balance of my time.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. FARY).

Mr. FARY. Mr. Chairman, I rise today in strong support of the Public Work's efforts of behalf of the clean water program. Through the work of both the Oversight and Investigation and the Water Resources Subcommittees, we have, what I consider to be a very effective bill. I commend both our chairman, Mr. ROE and our ranking minority member, Mr. HAMMERSCHMIDT, for their able leadership in guiding this bill forward in such a timely manner. Given the challenge put to us by the administration, I feel confident that this bill reflects the President's fiscal concerns, while retaining the essential strength of the program. I join with my colleagues on the committee in asking for your support of this bill as reported out of the Public Works Committee.

This bill has a national focus, rather than a regional one. It addresses the concerns of both urban and rural communities in a host of ways. For example, this bill extends Federal grants for limited capacity to meet growing population needs. It also encourages the expansion of innovative and alternative technologies to meet out pollution problems. However, the primary focus of this legislation is cost effectiveness. If there was only one issue that our committee regarded as necessary, it was that whatever technology a community chose, it should be a cost-effective system, that will meet the requirements of the act. In these days of austerity, a more reasonable premise would be difficult to find.

It is my understanding that the Environmental Protection Agency is currently redefining the category of secondary treatment. I heartily encourage that activity. We must get back to a practical approach in the treatement of wastewater. I suggest that there is a correlation between our cost-effective focus and a redefinition of secondary treatment. Here, we have the opportunity to make water pollution control attainable by encouraging different technologies.

Probably the most important provision in this bill is the continuance of Federal grant assistance for presently eligible categories, for those projects currently receiving assistance under the act. This continuity, that is the backbone of our bill is desperately needed by all the States. Without this "grandfathering" provision, local communities and States simply could not absorb the costs of completing those projects in the works.

In the city of Chicago, the tunnel and reservoir project of the Metropolitan Sanitary District of Greater Chicago, which has an approved step 2 grant, has received $1.2 billion. Yet the project still needs another million in Federal funds. This project will be a boon to the Chicago land area, capturing 80 percent of the raw sewage in underground tunnels, for treatment after a storm, rather than dumping these pollutants into the waterways. If the "grandfathering" section was not included in our legislation, the financial investment in this project would be lost. Alone, the city of Chicago could not afford this ambitious effort. Mr. Chairman, Chicago is not alone in this regard. There are literally hundreds of cities who have acted in reliance on our Federal commitment to water pollution control. If we change the rules now, the advances we have made will be lost.

I would strongly urge my colleagues to retain this "grandfather" provision and to support the bill in its entirety in order to maintain the integrity of our commitment and to continue the progress in cleaning up our waters.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana (Mr. ROEMER).

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Chairman, I strongly support H.R. 4305 and urge my colleagues to vote in its favor. The construction grants program is a huge budget item rightly targeted for reform by President Reagan and further improvements beyond the scope of this bill could still be made. However, our committee has sweated over this reform package, we have come up with a good bill, and we are now down to the wire. For the sake of the hard-pressed managers of sewer systems in our districts, if no one else, we should get this bill to conference and into law.

H.R. 4305 offers us the flexibility of making further refinements next year, it minimizes disruption in construction now underway, and it emphasizes cost-efective treatment. Most important of all, this bill is based on a sensible appraisal of what effect our "reforms" will have on the actual real-world implementation of the program.

In this regard, I am pleased that H.R. 4305 preserves the grant-eligible status of infiltration/inflow correction (known as infiltration/inflow correction) for those projects not yet in the design stage. Unlike the Senate, the House Public Works Committee benefited from substantial testimony on this serious issue. Although the EPA recommended that infiltration/inflow correction be removed from the categories eligible for Federal funding, groups as diverse as the Association of Metropolitan Sewerage Agencies, the National Utility Contractors Association, and eighty environmental groups supported maintaining current law as it related to infiltration/inflow correction and appears in H.R. 4305.

Infiltration/inflow is basically a clean water problem. Infiltration is the seepage of groundwater into sewer collection systems through leaks, breaks, and faulty joints. Inflow refers to fresh water that enters the system through other routes, notably roof and storm drains connected to the system. Although infiltration/inflow problems are commonly thought of in connection with the older cities of the Northeast, substantial infiltration/inflow problems exist nationwide.

For systems with infiltration/inflow problems, the difference between normal and peak flows can be extreme. After sudden rains, 400-percent flow increases are not uncommon—but even during dry spells, about half the flow to treatment plants is estimated to be infiltration: clean water, not sewage.

Unfortunately, it is not just expensively wasteful to transport and treat infiltration/inflow. Excessive infiltration/inflow has been found to be one of the major causes of plant performance failures, either by the flushing out of the microorganisms that activate secondary treatment or by the diluting of pollutant strength below effective levels. Worse, excessive infiltration/inflow can result in total bypass of the treatment plant and the dumping of raw sewage into our rivers and lakes.

Infiltration/inflow correction is possible and in fact offers the simplest and most cost effective solution to many of the financing and performance problems that bedevil the construction grants program. The technology is just now coming into its own.

The need for rehabilitation can be more precisely measured and diagnosed, repairs are less costly and require fewer excavations than in the past. And the cost/benefit ratios of infiltration/inflow correction can be five to six times that of additional treatment plant construction.

Although the cost of infiltration/inflow diagnosis and correction is a fraction of the cost of constructing additional treatment facilities, I fear that without Federal funding eligibility it would be too easy for financially strapped municipalities to ignore their infiltration/inflow problem and instead look to the Federal Government for large, peak capacity plants. A strong incentive for infiltration/inflow correction insures that we will not be wasting vast sums of money to treat unpolluted water and risking repeated permit violations in the future.

One of the major goals of the administration's reform legislation was to minimize Federal exposure. As a fiscal conservative, I have actively supported the majority of President Reagan's inititives in holding down Government spending. However, in this case, I believed, and the majority of the committee agreed, that the administration was setting out on a path that would be penny-wise and pound-foolish.

In short, the committee bill is a reasonable approach to reform and to good public policy. It provides the incentives and the measure of stability needed to help local governments meet the vital goals of the Clean Water Act.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 5 minutes of the minority time to the gentleman from New Jersey (Mr. Roe).

Mr. ROE. I thank the distinguished gentleman from Arkansas and Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. Ferraro).

Ms. FERRARO. Mr. Chairman, I rise in support of H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981. I want to congratulate Chairman Roe and the gentleman from Arkansas (Mr. Hammerschmidt), the ranking minority member of the Water Resources Subcommittee, for their outstanding work in bringing this bill to the floor so the House can act to get this vital program moving again.

Mr. Chairman, there is one provision of this bill that is of particular interest to me and to the city I represent. Section 19, which was added as a result of an amendment I offered in full committee, addresses the problem facing New York City and other municipalities which have entered into Federal consent decrees establishing construction schedules for waste water treatment plants.

The section simply states that it is the sense of Congress that judicial notice be taken of the reduced funding levels in this bill for the purpose of reexamining the provisions of Federal consent decrees.

Many State and local governments have in the past few years entered into consent decrees with EPA dictating construction schedules for the completion of treatment works. In many cases, those construction schedules were based on an expected Federal funding level much higher than that authorized in this bill. If no adjustments are made in the construction schedules, States and local governments will be required to make up the lost Federal funds, in some cases hundreds of millions of dollars, with their own funds or stand in violation of the consent decrees.

Section 19 recognizes this reality and expresses the sense of Congress that courts take judicial notice of the reduced funding when considering changes in consent decrees.

It was never the intention of the Congress to heap enormous cost burdens on State and local governments in this program. This amendment is an attempt to maintain that important principle.

I believe the bill is a good bill and I urge its adoption.

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Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan, the Honorable Bob Traxler.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman for yielding these 3 minutes to me and to my distinguished minority member for allowing us to have that time.

Under the circumstances this is, indeed, a remarkable bill, the circumstances being the budget constraints and the reconciliation resolution and the position of the administration.

I wish to commend both the majority members of the subcommittee and the full committee and the minority members of the subcommittee and the full committee.

Certainly the pressures were great to do something other than what they have done.

In the limited time available to me, I would like to make some comparisons, if I may, between the 1972 act as amended, H.R. 4503, and the Senate bill, S. 1617. My recollection is that under the existing act, the one that is expiring or parts of it expire October 1, that there is an up to $5 billion per year authorization with up to 75 percent Federal and the rest being local and State funding of the individual projects at a runout cost of perhaps $90 billion in total. Compare that with S. 1617, which the Senate is scheduled to take up this afternoon. That is a $23 billion runout cost compared to the House bill, H.R. 4503, $50 billion.

The Senate has ultimately a 55-percent Federal contribution per project and the House version that we are now considering maintains the 75-percent Federal contribution.

As a general statement, I think it is fair to say that the recommendations that are contained in the Senate bill, S. 1617, do not represent reform, but represent a retreat, a retreat from this Nation's commitment to cleaning up our waters. Coming from a State that is surrounded by the largest fresh body of waters in the world, we have a keen and a valuable interest in maintaining the purity and restoring the purity of those waters and rivers.

The subcommittee and the full committee has done yeoman service in years gone by to achieve that goal. I want to commend them.

I hope at the appropriate time in conference that the gentleman's good views and the commonsense the gentleman has demonstrated here and the concern for the future of untold generations of Americans who are going to benefit so much from H.R. 4503 and the concepts and the principles that are there, I hope that every effort will be made in the conference to maintain our position.

I must say that I know for many of you, H.R. 4503 is not the closest thing to your hearts, but given the circumstances and the restraints under which you had to work, it is indeed a remarkable achievement. I do commend all of you.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Porter).

(Mr. PORTER asked and was given permission to revise and extend his remarks.)

Mr. PORTER. Mr. Chairman, twice this summer, my district suffered through the experience of having their basements flooded with a combination of storm-water and raw sewage. I think you can imagine their anguish—as well as the number of letters and phone calls I have received asking for relief from this terrible problem.

Sewers in my district were built decades ago when it was common to combine storm water runoff and sewage into one combined sewer system. The system works fairly well in moderate rainfall but spells sure disaster when heavy rainfall occurs. Heavy rains produce runoffs beyond the capacity of the sewers, forcing the storm waters—now mixed with raw sewage—to back up into basements.

Basement flooding with storm water alone would be bad enough. But the mixture of the water with a huge volume of organic waste was more than a nuisance: It did property damage of an irreparable nature, it created a public health risk for the large urban and suburban populations exposed to the flooding, and it polluted Lake Michigan and a long stretch of our beaches.

In the debate on the Water Pollution Act amendments, there are those who would have us believe that flood control and pollution control are mutually exclusive. Indeed, the very nature of funding under the act has placed a primacy upon so-called pollution control projects and ignored so-called flood control projects.

The distinction is one which cannot be supported by engineering realities for more than half of the sewer systems in this country. As in my district, most of the sewer systems in this country, particularly those which are more than a few decades old, are combined storm overflow and sanitary systems.

The committee has recognized this fact. It has included combined sewers for funding in the bill before us today; the other body has not seen fit to do so.

In supporting the House version before us, we are establishing our fundamental understanding of the problem. We are saying that we recognize the greatest needs of the entire Nation and not just those of newly developing portions—those who can most afford to bear the costs because of expanding tax bases and also most able to take advantage of the latest technologies. We are saying that we recognize the need to help communities overcome the effects of age in order to negate the effects of water pollution. We are also recognizing that the greatest risk of such pollution occurs just where it is potentially most injurious to the public health—in the densely populated older areas of the country.

We recognized these problems in the past. We recognized them when we initially authorized the program's growth. We also recognized the limitations of funding and resources for the Federal Government and of the problems created if the Federal Government were to get into the business of building sewers for each community in the Nation.

Accordingly, we developed incentives for regional cooperation. In the Chicago area, such incentives led many suburban municipalities to enter into a cooperative agreement with the Metropolitan Sanitary District to build the tunnel and reservoir project, also known as TARP or deep tunnel.

That project has created much controversy in the press, among budgeteers, and among engineers. Many years into construction, there still appears to be doubt about just how much pollution will be stopped if the project is completed. Perhaps it will dry out all of the afflicted basements in the Chicago area; perhaps it will dry out none of the basements. More likely, it will help some but not help others very much.

In any event, the effect of a failure to proceed, at least to the completion of phase I, is clear: The situation will worsen, Lake Michigan will be threatened and people's health will be threatened. And if we do not reauthorize that portion of the act which provides funding for CSO's, we will do something far worse. For those communities who have followed Congress incentives and entered into cooperative regional agreements under that portion of the act, we will be saying "you missed your chance; there is no money for you because you did not already have an approved project."

Mr. Chairman, I very strongly urge the Members' support of H.R. 4503 and particularly commend to their attention that portion which deals with combined sanitary and overflow systems. I further urge that when this bill goes to conference with the other body, that the Members from the House stand firm in continuing to authorize funding for CSO's and continuing to authorize the development of regional cooperative agreements.

If this is done, the Federal Government will have kept faith with those communities who have planned, over the last decade, to resolve their pollution problems, while at the same time reminding those communities that they, too, have a responsibility to provide their fair share of the cost.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to commend the chairman of the full committee, the gentleman from New Jersey (Mr. HOWARD) and the ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN), for the contributions they have made to this legislation, but I particularly want to commend the gentleman from New Jersey who has provided outstanding leadership during the development of H.R. 4503. The bill has been pretty well explained and I think everyone fully understands what we are going to be voting on.

This legislation is the result of many days of hearing and extensive efforts by members of the Committee on Public Works and Transportation and its Water Resources Subcommittee. The chairman of the subcommittee, the gentleman from New Jersey, has provided outstanding leadership during the development of H.R. 4503. I greatly appreciate the bipartisan cooperation at both the subcommittee and the full committee level and am confident that the same strong bipartisan support will be shown for the bill here in the House.

H.R. 4503 makes valuable changes in the construction grants program and authorizes the $2.4 billion that the President desires for this program in fiscal year 1982.

The incentive to develop this legislation comes directly from the administration, and for that, they are strongly to be commended. By requiring legislative action before continued funding and by submitting substantive proposals earlier this year, an excellent basis for review was provided. From these administration initiatives, the bill before us has been developed using input from agencies, States, municipalities, and many knowledgeable organizations and individuals, during numerous hearings.

H.R. 4503 represents the changes that the Committee on Public Works and Transportation recommends in order to make $2.4 billion available to the program as soon as possible during fiscal year 1982. I am especially pleased that the bill limits the authorization to only $2.4 billion for 1 year as the President has requested.

I again want to commend my colleagues on the Public Works Committee for the excellent job that has been done in developing H.R. 4503. I truly believe this legislation is vital to the districts of each and every Member of Congress and that each of us can and should vote for its passage.

Mr. ROE. Mr. Chairman, will the gentleman from Arkansas yield?

Mr. HAMMERSCHMIDT. I am pleased to yield to my distinguished colleague.

Mr. ROE. Mr. Chairman, I know that I am out of time. The gentleman from California would like to be recognized.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Mineta).

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding.

I would like to rise in support of H.R. 4503 and to commend the subcommittee chairman and the ranking minority member, the gentleman from Arkansas, for their great work on this.

I know that this bill has had the bipartisan support of the members of our committee.

I would again like to thank the chairman of the full committee, as well as my dear colleague, the gentleman from California (Mr. Clausen) for their work on this bill and commend the passage of this bill to the Whole House.

Mr. Chairman, I too wish to rise in support of H.R. 4503, a bill to amend the Federal Water Pollution Control Act, and to provide critically needed grants program.

Last year, the House Public Works and Transportation Subcommittee on Investigations and Oversight, which I had the privilege of chairing during the last Congress, examined the grants program to determine why it has been so difficult to complete waste water treatment plant construction projects—that are needed to clean up the sewage that is being discharged from thousands of communities all across the country.

Probably the most important finding that came from that review was that the continuing uncertainty that many local officials have about Congress willingness to fund this program, coupled with the frequent changes in the law made by the Congress itself, have most often been the root cause of these delays. And probably the most significant, and critically needed recommendation we made was that this program be given a period of stability and continuity.

Mr. Chairman, I believe that this bill, H.R. 4503, by reauthorizing funds for fiscal 1982, and by retaining certain eligibilities, and phasing out others, rather than abruptly changing the rules in midstream as others would have us do, will provide an interim period of stability and continuity that is paramount, if we are to reassure local officials and the public that the Congress has not walked away from its commitment to cleaning up the Nation's waters.

Mr. Chairman, this bill will also allow us to carefully examine what must be done to meet this program's long-term needs.

Changes are needed, but as prior oversight has clearly established, they must be gradual changes, and I believe that the recent work of the Investigations and Oversight Subcommittee, now under the able leadership of the gentleman from Georgia (Mr. Levitas), and the hearings on this bill, held by the Water Resources Subcommittee, chaired by Congressman Roe of New Jersey, continue to underscore that need, and has provided us, as well, with a considerable and comprehensive body of knowledge that will allow us to address not only our water quality concerns, but our efforts to responsibly reduce Federal spending, and to live within the budget we establish.

Mr. Chairman, when the budget was developed earlier this year, it was done so with the knowledge that when revisions were made to the clean water law's construction grants program's requirements, room would be found to provide for a $2.4 billion authorization for this program. I have recently spoken with our colleague, Mr. Jones of Oklahoma, and he has pledged to work with me to provide for this funding.

Mr. Chairman, I want to urge all of my colleagues today, to rise with me in support of this bill, of this 1 year reauthorization, of this signal to the President, and to the American public that the House of Representatives of this 97th Congress still believes that clean water is important. We must not turn our back on that national mandate established almost a decade ago to clean up the Nation's waters.

The job is much too important to walk away from, and we have far to go before we can say we have achieved our goals.

Thank you.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 4503, a sorely needed authorization for our waste water treatment construction grants program. The Water Resources subcommittee, under the leadership of the gentleman from New Jersey (Mr. Roe), and the full committee, under another distinguished member from New Jersey (Mr. Howard), deserve the commendation of this House and every American concerned about eliminating pollution from our Nation's waters.

This authorization has been reported under fiscal restraints imposed by the administration, restraints that in themselves will severely hamper this program. This bill makes the best possible effort to maintain the program under these unreasonable restraints. Without directing or intending any criticism of the bill, let me briefly state how its terribly low funding level will affect waste water treatment efforts in just one congressional district, my own 20th Congressional District in New York City.

For 40 years now, a sewage treatment plant has been planned for the Upper West Side of Manhattan. After decades of debate and speculation, a site at 135th Street and the Hudson River was approved in the late 1950's. Construction finally began in the late 1960's on the interceptors, and in the early 1970's on the North River plant itself. Progress was slow, so the U.S. Environmental Protection Agency and the City and State of New York agreed in a Federal consent decree 4 years ago to a schedule for construction. Now the overly restrictive funding limits imposed by an often blindly cost-cutting administration will delay this plant still further.

No one knows yet exactly how much delay will result. But it is certain that the North River plant, a $1.29 billion undertaking, is critically needed. Near the site where it lies partially built, raw sewage continues to flow into the Hudson. In an age when gleaming buildings dot the Manhattan skyline, in the largest metropolis in the world, this backward and unhealthful situation must be corrected as soon as possible. Clearly it has been allowed to persist for far too long.

Again, I commend the subcommittee and the full committee for a fine bill, a bill which makes the best of a bad situation. Next year, I hope we will be able to vote on a bill that has the added benefit of the larger authorization that is needed. The administration must recognize the need for truly adequate funding for our efforts to combat water pollution, and to safeguard the public health.

Mrs. BOUQUARD. Mr. Chairman, I wish to commend the chairman of the full committee, the gentleman from New Jersey, and the subcommittee chairman, the other gentleman from New Jersey for their work in bringing a responsible and constructive bill before the House. There are in particular two provisions which I believe are important, and which pertain directly to a crucial project the Mocasin Bend facility in the city of Chattanooga, Tenn.

First, the grandfather clause for projects already underway is crucial for this particular facility. To alter the guidelines at this point could cost the city millions of dollars and offer no improvement in water quality.

Second, the direction to the Governors of those States certified by EPA to ward funding in accordance with the State water quality plan will help to avoid the unfortunate situation where some States might seek to use these funds to pay for smaller projects that could be completed within the fiscal year, and trust to the Federal Government to provide additional funds for ongoing projects.

I commend both the gentleman from New Jersey, and I urge the passage of the Federal Water Pollution Control Act Amendments of 1981.

● Mr. DUNN. Mr. Chairman, I rise today in support of H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981. I would like to thank the committee and subcommittee chairmen, the gentlemen from New Jersey, Mr. Howard and Mr. Roe, and the ranking members, Mr. Clausen and Mr. Hammerschmidt, for their fine leadership in bringing this legislation to the floor. These gentlemen and their colleagues on the Committee on Public Works and Transportation were particularly helpful to me in resolving a longstanding problem in my home State of Michigan.

Bath Township, Mich., has been in the process of applying for an EPA construction grant since 1972. After receiving a State order to begin construction, Bath accepted a State grant and had every intention to begin construction by the fall of 1972. During this period, Bath would have received EPA funds for which it was fully eligible had not an executive impoundment shut off the money flow. Congress later recognized this problem and the inequity it created and provided retroactive funding within the 1977 Clean Water Act for those projects affected by the impoundment. Unfortunately, a unique set of circumstances, including conflicting State and Federal regulations, and delaying law suits, forced Bath out of the eligibility category under the 1977 correcting legislation.

In essence, Mr. Chairman, Bath Township was caught in a classic catch-22. In complying with lawful orders and requirements, it had lost the funding that it deserved and badly needed. Since that time, Bath Township has been having serious difficulties in making the bond payments to finance this project. Had the township received EPA grant moneys, this financial problem would not exist today.

The Committee on Public Works and Transportation has demonstrated a keen sense of fairness and understanding by having included in this legislation a remedy for this township's unique problem. I believe this solution is a fair and reasonable approach in concluding this matter and urge my colleagues to join me in support of this bill and of the fine work of the committee.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 4503, legislation reported by the House Committee on Public Works and Transportation as the Federal Water Pollution Control Act Amendments of 1981.

The bill, as reported by the committee, is generally in line with the administration's proposed funding level of $2.4 billion to continue, in fiscal year 1982, the construction of water treatment plants and the programs authorized in the original Federal Water Pollution Control Act and the so-called Clean Water Act.

They are sound programs. They will continue to help the vital infrastructure development—in every State of the Union and in Puerto Rico—of projects so necessary to sustain the sound environmental quality to help improve the quality of our life.

I wish to commend the distinguished chairman of the House Public Works and Transportation Committee, Mr. HOWARD, and the chairman of the Water Resources Subcommittee, Mr. ROE, for their considerable diligence and perseverance in the task of reviewing any proposals to restrict the construction of municipal sewage treatment plants in the fiscal year which we are now in. They have reported an important and realistic bill.

The committee bill continues a larger Federal participation in these construction activities for State and local governments but it did, however, accept the cut in Federal grant authority for fiscal year 1982 from $5 billion to $2.4 billion.

The figures are still, I would like to note, considerably below official Environmental Protection Agency estimates of the needs required to achieve the goals of the water cleanup program.

The bill contains other provisions important to the future of clean water. States are granted more discretion and more authority in administering their cleanup programs and for new projects. Governors can use up to 30 percent of a State's allotment for cost-effective treatment works, other than treatment plants and interceptors.

In addition, one particular provision repeals the industrial cost exclusion (ICE) provision of the existing law. Previously, Federal grants for construction of municipal treatment plants with the capacity to treat industrial discharges of more than 50,000 gallons per day were prohibited.

This is very important to Puerto Rico since the ICE provision presented an undue burden on the ability of our municipalities to realistically address the problem of industrial discharges and water pollution.

It seems to me, Mr. Chairman, that there are some national standards, some uniform rules, that should be applied in many areas of legislative activity. The empty rhetoric of deregulation and laws to unleash the private sector which abounds in many quarters today flies in the face of reality of the need to provide all U.S. citizens—no matter where they reside—for a safe and sound living environment, one free from the horrors of polluted waters, toxic chemicals, or other hazardous substances.

The continuation of the existing EPA programs are vital in this regard. They are not—as both of my distinguished colleagues Mr. HOWARD and Mr. ROE well know—as visible or as politically damaging as cutbacks in social security, or other programs of individual benefits which so many of us oppose.

But cutbacks in the area of the environment are no less important. In providing for future waste water treatment needs in a realistic manner, given today's fiscal restraints, this bill addresses problems that certainly benefit all U.S. citizens, in a manner not as visible or obvious as the other areas mentioned.

The vision of this legislation is one which, years from now, will be as important as it is today, and the continuance of EPA programs is another tool in our national cleanup campaign in which Puerto Rico is a proud partner.

I hope H.R. 4503 passes and is speedily implemented. I join with the committee in support of this bill.●

● Mr. FIELDS. Mr. Chairman, I am very glad to see us proceeding with consideration of this important environmental legislation. I believe our committee chairman, Mr. HOWARD, our able ranking minority member, Mr. CLAUSEN, and our subcommittee leaders, Mr. ROE and Mr. HAMMERSCHMIDT, should be commended for the very solid bill that is being brought before us here today.

While I have consistently supported President Reagan's efforts to control Federal spending, I believe it is incumbent upon this Congress to reduce Federal participation in this important program in a realistic manner. Our bill accomplishes that goal by significantly reducing the Federal Government's financial exposure, while providing assurances to those local communities which are now attempting to comply with the provisions of the Federal Water Pollution Control Act.

Additionally, our bill is superior to its Senate counterpart in several important ways. One of the most important, I believe, is the manner in which our bill treats the allocation of funds to the States. I am well aware that the administration would have had us throw out completely the allocation approach that has been followed in this program for years and substitute for it an approach based solely on a State's so-called backlog needs.

Mr. Chairman, I believe our bill is correct in rejecting this proposal by the administration and maintaining the existing formula for allocating funds to the States. Let me say that Texas' experience with the EPA regarding the calculation of these so-called backlog needs is sufficient evidence alone to reject the administration's total reliance on such figures as the basis for allocating funds.

Briefly, Mr. Chairman, our water resources department in Texas followed EPA's own methodology and concluded that Texas' backlog needs under the EPA definition were actually twice that attributed to the State by the EPA, a difference of some $650 million. Texas submitted a project-by-project recalculation that proved this $650 million in additional needs to the EPA and the EPA was unable to: first, prove any of Texas' figures to be wrong; or second, prove any of Texas' use of the EPA methodology to be wrong. Therefore, it is now clear and documented that Texas has been shortchanged by a factor of 100 percent in the backlog needs figures that EPA is asking us to use in the administration-backed formula. I wonder, Mr. Chairman, how many other States might vary in their real needs by plus or minus 100 percent. Since EPA's backlog estimates are clearly in question, I cannot imagine that we would want to allocate funds to States solely on the basis of these figures as it is asking us to do.

A second key difference concerns the issue of reserve capacity. While the Senate bill calls for the elimination of Federal grant money for this purpose, our bill provides for ongoing reserve capacity for both step 2 and step 3 wastewater treatment projects. In addition, it allows for 10 years reserve capacity for any new project receiving Federal assistance following the enactment of this legislation.

Mr. Chairman, as a representative of one of the fastest growing metropolitan areas in this Nation, I feel we must build wastewater treatment plants based on realistic population estimates. In my judgment, to build a new wastewater treatment plant in Houston, Tex., or any rapidly growing community based on 1980 population figures makes absolutely no sense, for such a project would soon be obsolete.

It is my firm belief that we must recognize the unique problems facing fast growing regions of our country and I believe that in the long run both local communities and the Federal Government would save substantial amounts of money by allowing projects to be built with reserve capacity.

I am confident that this body will work hard to see its approach on this and on other important points in our bill ultimately prevail in a House-Senate conference committee. Thank you, Mr. Chairman, and let me add that I am proud to have participated in the development of this bill and I look forward to lending my support to its passage.●

● Mr. MOFFETT. Mr. Chairman, I rise today to voice my concern over language in H.R. 4503, section 16(a). That language removes the current requirement that only marine outfalls in existence when the 1977 Clean Water Act amendments were enacted can qualify for a waiver of secondary treatment requirements. Mr. Chairman, I am concerned about this provision because it could lead to a major increase in the discharge of wastes into our coastal waters. This alleged costsaving action could, over the years, result in significant additional costs to the economy and the Federal Government through environmental and marine life damage to our coastal areas. The approach that the Committee on Public Works has adopted could significantly accelerate ocean pollution. I think that would be an unfortunate mistake.

I believe the better route would have been to defer action on this section and consider it when the committee marks up amendments to the Federal Water Pollution Control Act next session. I do not think that we should encourage municipalities to increase their ocean discharge without a more thorough review of the potential impact of such a step and without further consideration of whether this is in fact the best way to cut costs. I note, for example, that this provision goes beyond simply grandfathering-in municipalities which already discharge to our oceans. This new provision would allow other municipalities to switch to this form of waste water disposal. The cumulative impact on the environment of hundreds of new ocean discharges into sensitive nearshore waters could be highly adverse.

In a very significant May General Accounting Office report on this topic, the GAO acknowledges that the present statutory framework is not "overly restrictive for large communities with industrial wastes" and that "secondary treatment it likely justified" for communities which "discharge wastes into bays and estuaries." Yet H.R. 4503 in its current form holds open the possibility of a secondary treatment waiver for all present or possible marine discharges for the foreseeable future.

In addition, I am concerned that cuts proposed by the administration in the Environmental Protection Agency and other Federal and State water enforcement and monitoring funds and cuts in research will prevent us from recognizing or preventing environmental harm from these new discharges before they cause significant, perhaps irreversible damage. I heartily concur with the additional views expressed by my colleagues, Mr. OBERSTAR and Mr. EDGAR, in the committee report on this legislation. I think we should not move ahead with the proposed changes in section 16(a).

I urge my colleagues on the Public Works Committee to review this matter in a more thorough manner next session.●

● Mr. GOLDWATER. Mr. Chairman, I am pleased to rise in support of H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981, as a worthwhile bill in its own right, as a prerequisite for continued funding of the construction grants program, and as a forerunner of further reforms when the Clean Water Act undergoes further modification next year.

As to funding, its construction grants authorization of $2.4 billion for fiscal year 1982 is modest indeed in comparison with the $4 billion, $5 billion and even $6 billion in annual authorizations during the early years of the program under Public Law 92-500. The Committee on Public Works and Transportation has been responsive to legitimate budgetary concerns in this regard.

H.R. 4503 is not, however, a mere simple extension of existing law, much less a pared-down version of business as usual. In fact, it contains a number of provisions to improve the performance of the construction grants program and the wastewater treatment works which it produces.

I would cite in particular the provisions dealing with the following:

Innovative and alternative technology, strengthening the incentives for processes and equipment that are cheaper, simpler and more energy efficient; continued eligibility for projects to correct sewer system infiltration and inflow as a cost-effective alternative to construction of larger treatment works; procurement of treatment processes and equipment, by the removal of a statutory restriction which serves to discourage innovation on the part of equipment manufacturers and to undercut responsibility of municipalities and their engineering consultants for the performance of treatment works constructed under the program; strengthening of the role of the States in managing the construction grants program, achieved by providing greater stability in funding.

These provisions in particular are supported by the record of hearings of the Subcommittee on Investigations and Oversight, on which I serve as ranking minority member. Under the leadership of my friend from Georgia, Mr. LEVITAS, we have just concluded the most thorough investigation ever undertaken into the performance of wastewater treatment works constructed with Federal assistance. The record of those hearings, conducted in a completely bipartisan manner, strongly supports the provisions of H.R. 4503 which I have cited. Thus, from an oversight perspective, it supports the work of Chairman BOB ROE of the Water Resources Subcommittee and his minority counterpart, JOHN PAUL HAMMERSCHMIDT.

With particular respect to innovative and alternative technology, I appreciate the full committee's acceptance of a modest amendment which I offered to help overcome reluctance on the part of grantees and their design engineers to consider innovative and alternative processes and components. In recognition of the fact that many promising ideas have had the benefit of only laboratory simulation or limited pilot testing, this provision makes more extensive field testing grant eligible to provide the missing element of verification as to performance capability.

All these aside, however, the bill would be justified if only by its amendments dealing with the issue of waivers from secondary treatment requirements for communities discharging their treated wastewater into marine waters through ocean outfalls. If it makes sense from an environmental and economic standpoint for communities with existing ocean discharges to treat to a degree lesser than full secondary, there is absolutely no rationale for denying this option to others provided they meet the same stringent water quality requirements.

The provisions of H.R. 4503 dealing with ocean waivers in fact closely parallel those of my own bill, H.R. 4466, which I introduced following an oversight hearing focused principally on the ocean discharge issue, held at my request in Los Angeles on September 8.

Mr. Chairman, none of us would

argue that H.R. 4503 is a comprehensive bill providing all needed changes in the Clean Water Act. It does not even purport to deal with all the problems we have identified in the construction grants program.

But the committee has chosen to move in a more limited manner at this time, responding to concerns expressed by the administration and the other body, while properly preserving the constructive policy positions which the House has asserted for the past decade and more.

I urge my colleagues to support H.R. 4503 in its present form at this time, so we can move into conference with the Senate and seek to fashion a bill that will provide a basis for funding of the construction grants program through fiscal year 1982. Then we can turn our efforts to the task of crafting longer term amendments to both the regulatory and the construction grants aspects of the law which ultimately will be necessary if it is to do the job we all intend.●

● Mr. WALGREN. Mr. Chairman, I earnestly hope the House today will approve, H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981. This bill would continue for 1 year the program that provides funds to every State on a 75-percent Federal, 25-percent State and local matching basis to construct and upgrade sewer and waste water treatment facilities.

It is simply not fair to keep putting local communities through so much uncertainty in this program. Fluctuations in funding levels, impoundments in the early years, proposed reforms, rescissions, and deferrals of funds—all have created too much uncertainty for local officials, many of whom have begun expensive planning studies in anticipation of future funding for construction. While this bill only continues the current program for 1 year, it will, I hope, be successful in triggering the 1982 appropriations that are needed by many towns and municipalities across the country.

The funding level of this bill also creates uncertainties for local officials, since because Congress previously went along with the $2.4 billion funding level requested by the Reagan administration. The public is often under the impression that President Reagan is preventing growth in Government spending, but the administration's action in this case was a 50-percent cut, from $5 billion to $2.4, in a very essential program.

President Reagan proposed sweeping changes. Some changes can no doubt be made in light of the Nation's water needs, and I understand that our House Public Works Committee will look at those changes in a comprehensive fashion next year. The complicated needs of both municipal systems and industrial problems, should be addressed together, since they are so closely related. We certainly need to examine the appropriate State and Federal roles. I support an overall review of the program and the needs of our communities. In the meantime, we need this bill to keep funding going in the current year.

In addition to taking the steps necessary to guarantee funding for fiscal 1982, I have two other concerns. First, to meet the clean water requirements of current law, communities can receive grants to construct, upgrade, and enlarge sewage treatment plants. Additionally, funds are authorized for rehabilitating sewer lines or replacing old lines with new ones. The Northeast-Midwest coalition found that the allocation formula weighs new construction needs more heavily than replacement or rehabilitation needs. Many of our systems in western Pennsylvania were built in the 1940's and some even 50 to 80 years ago when the Federal clean water requirements were not in effect. We must make sure that the law is not biased against these older communities. I understand that the administration's proposal, which is not included in this bill, eliminates rehabilitation projects for funding.

My second concern is the issue of reserve capacity. Reserve capacity is used to accommodate future population growth. Current law requires new plants to build reserves of 20 years, and the administration has proposed to eliminate this requirement. The House bill before us would allow for 10 years population growth. The House provision heads us in the right direction and will give us time to look at this more closely.

The Nation's public health and water quality needs are complex. We must do all we can to make sure we have clean water. Today we must act to make sure this program is continued so that funds will continue to be available to communities that have critical water quality problems.●

● Mr. HUGHES. Mr. Chairman, I would like to add my support to the committee amendment offered by Congressman Roe to H.R. 4503 which would place a 1-year moratorium on the implementation of the section 301(h) ocean outfall waiver provisions which would otherwise have been greatly expanded by section 16(a) of this bill.

As you know, when Congress amended the Clean Water Act in 1977, we provided a mechanism by which communities with existing ocean outfalls could apply for a waiver of the secondary treatment requirements provided certain environmental safeguards enumerated in the act were complied with. Despite the fact that the 1977 amendments allowed 270 days for the filing of applications for ocean outfall waivers, a number of communities claimed to have been frustrated in their attempt to obtain waivers due to EPA's failure to issue suitable guidelines and regulations in a timely fashion.

That does not mean, however, that Congress should now go back and open up that waiver process which was envisioned to apply only to preexisting outfalls, nor does the fact that the GAO has estimated that billions could be saved by broadening the waiver provisions mean that we should now make substantive changes to the Nation's fundamental water pollution control law—changes that have the potential to encourage the further degradation of our coastal waters.

Although the drafters of H.R. 4503 believe that significant safeguards exist within the Clean Water Act to assure the qualty of coastal waters is maintained, I believe that the EPA, following the lead of the administration, has demonstrated its intentions to ease up on environmental protection initiatives—especially where cost savings can be achieved and where potential environmental harm can be downplayed.

I am also concerned that the 301(h) waiver provisions of H.R. 4503, as reported from committee, would open the door for hundreds of coastal communities to pursue the ocean outfall option rather than comply with the secondary treatment requirement mandated by the Clean Water Act. As you know, the GAO has estimated that approximately 800 additional communities could be eligible for the 301(h) treatment if the waiver provision was broadened. All of this at a time when EPA's budget and permit review staff is being significantly cutback.

It is clear to me that any expansion of the ocean outfall waiver provisions constitutes another in a series of actions which could result in the further degradation of our resource-rich coastal waters. EPA has already demonstrated its intent not to enforce the 1981 deadlines on the ocean dumping of sewage sludge despite Congress mandate to end the ocean disposal of harmful sewage sludge by the end of this year. Expanding the 301(h) waiver provisions to allow hundreds of additional coastal communities to avoid the secondary treatment requirement would be a definite step backwards, a step I urge Congress not to take.

I support the committee's amendment to place a 1-year moratorium on the expansion of the 301(h) waiver provision. The moratorium will give Congress additional time to study the consequences of such actions while providing an opportunity for additional public input on the matter.

A moratorium on the expansion of the waiver provisions will also go a long way in making it clear to the Nation that Congress does not intend to open up the oceans again as the final dumping ground of our country's wastes. I urge those of you who are concerned about the future of our coastal waters and the marine environment to oppose the expansion of the ocean outfall wavier provisions.

Thank you.●

Mr. **HAMMERSCHMIDT.** Mr. Chairman, I have no further requests for time.

Mr. **ROE.** Mr. Chairman, I have no further requests for time.

The **CHAIRMAN.** All time has expired.

Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 4503

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1981".

Sec. 2. Section 201(g)(5) of the Federal Water Polution Control Act is amended by striking out "more efficient use of energy and resources." and inserting in lieu thereof "most efficient use of energy and resources which will result in the lowest net cost of water and sewer service to the consumer.".

Sec. 3. Section 201(k) of the Federal Water Pollution Control Act (33 U.S.C. 1281(k)) is hereby repealed.

Sec. 4. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:

"(k) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—

"(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

"(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

"(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.".

Sec. 5. (a) Section 205(c) of the Federal Water Pollution Control Act is amended by inserting after the first sentence the following: "Sums authorized to be appropriated pursuant to section 207 for the fiscal year ending September 30, 1982, shall be allotted for such fiscal year by the Administrator not later than the tenth day which begins after the date of enactment of the Federal Water Pollution Control Act Amendments of 1981.".

(b) Section 205(c) of the Federal Water

Pollution Control Act is amended by striking out "and September 30, 1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982,".

(c) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1981" each of the two places it appears and inserting in lieu thereof at each such place "1981, and 1982".

Sec. 6. (a) The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting immediately after "October 1, 1977," the following: "except in the case of the fiscal year beginning October 1, 1981, in which case the percentage authorized to be reserved shall not exceed 4 per centum,".

(b) Section 205(g)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.".

Sec. 7. (a) Section 205(i) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," in the first sentence and inserting in lieu thereof "September 30, 1981, and September 30, 1982," and by adding at the end thereof the following: "Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 3 per centum nor more than 5 per centum of the funds allotted to such State for the fiscal year ending September 30, 1982, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".

(b) Section 202(a)(2) of the Federal Water Pollution Control Act is amended by striking out "1981" and inserting in lieu thereof "1982" and by striking out "significant portion" and inserting in lieu thereof "any component".

(c) Section 202(a)(4) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982," and by striking out the last sentence.

Sec. 8. Section 204(a)(6) of the Federal Water Pollution Control Act is amended by striking out ", or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal' " and by adding at the end thereof the following: "When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named."

Sec. 9. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1981, or $100,000, whichever amount is the greater.

"(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to,

"(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

"(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A); and

"(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, reporting on these annually.

"(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.

"(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.".

Sec. 10. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.".

Sec. 11. Section 207 of the Federal Water Pollution Control Act is amended by striking out all that follows "September 30, 1982," and inserting in lieu thereof "not to exceed $2,400,000,000.".

Sec. 12. Section 212(1) of the Federal Water Pollution Control Act is amended by inserting after "procedures," the following: "field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 304(d)(3) of this Act,".

Sec. 13. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "COST EFFECTIVENESS

"Sec. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) of which is used for ultimate disposal of residues resulting from such treatment; and water efficiency measures and devices; and any other method or system for preventing abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.

"(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.

"(c) This section applies to projects for waste treatment and management for which no treatment works included in a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under the Federal Water Pollution Control Act before the date of enactment of this section.".

SEC. 14. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"STATE CERTIFICATION OF PROJECTS

"SEC. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance under this title, the Administrator shall approve or disapprove such application within thirty days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within thirty days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.".

SEC. 15. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"PUBLIC HEALTH AND WATER QUALITY BENEFITS

"SEC. 220. It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.".

SEC. 16. (a) Section 301(h) of the Federal Water Pollution Control Act is amended in the portion preceding paragraph (1) by striking out "in an existing discharge" and by inserting after "subsection (b)(1)(B)" the following: "or subsection (b)(2)(B), or both such subsections,".

(b) Such section 301(h) is amended by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and by striking out paragraph (8).

(c) Such section 301(h) is further amended by adding at the end thereof the following: "A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) or (b)(2)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters.".

(d) Section 301(j)(1) of the Federal Water Pollution Control Act is amended to read as follows:

"(j)(1) Any application filed under this section for a modification of the provisions of subsection (b)(2)(A) as it applies to pollutants identified in subsection (b)(2)(F) shall be filed not later than two hundred and seventy days after the date of promulgation of an applicable effluent guideline under section 304 or not later than two hundred and seventy days after the date of enactment of the Clean Water Act of 1977, whichever is later.".

SEC. 17. Notwithstanding section 204(a)(5) of the Federal Water Pollution Control Act, before approving grants under section 201(g) of such Act for any project for treatment works to which this section applies, the Administrator of the Environmental Protection Agency shall determine that the size and capacity of such works relate to the needs to be served by such works including sufficient reserve capacity, except that no grant, other than for facility planning and the preparation of construction plans and specifications, shall be made under title II of such Act to construct that portion of such treatment works providing reserve capacity in excess of projected needs for a period of ten years after receipt of the first application for Federal financial assistance under this Act with respect to such treatment works. This section applies to treatment works which have not received Federal financial assistance under the Federal Water Pollution Control Act for the preparation of construction plans and specifications or for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works before the date of enactment of this section and to treatment works which have received such assistance and have been entirely completed before the date of enactment of this Act. This section does not apply to any treatment works not completed on the date of enactment of this section which has been funded entirely by State and local financing and which, if it had been applied for, would have been eligible for Federal financial assistance under this Act.

SEC. 18. Notwithstanding any provision of the Federal Water Pollution Control Act, except as otherwise provided in this section, in the case of any treatment works eligible to receive Federal financial assistance under such Act which has not received any such assistance before the date of enactment of this section, and in the case of any treatment works which has received such assistance and has been entirely completed, the Administrator of the Environmental Protection Agency shall make grants under such Act only for projects for secondary treatment or more stringent treatment, or any cost-effective alternative thereto, new interceptors and appurtenances, sewer system evaluation studies under section 201(g)(4) of such Act, and infiltration-in-flow correction. The Administrator is authorized to make grants for such works for any project within the definition set out in section 212(2) of such Act, other than for a project referred to in the preceding sentence, except that not more than 30 per centum (as determined by the Governor of such State) of the amount allotted to a State under section 205 of such Act shall be obligated in such State under authority of this sentence. This section does not apply to any treatment works not completed on the date of enactment of this section which has been funded entirely by State and local financing and which, if it had been applied for, would have been eligible for Federal financial assistance under this Act.

Sec. 19. It is the sense of Congress that judicial notice should be taken of this Act and of the amendments to the Federal Water Pollution Control Act made by this Act, including reduced authorization levels under section 207 of such Act, and that the parties to Federal consent decrees establishing a deadline, schedule, or timetable for the construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions.

Sec. 20. The Administrator of the Environmental Protection Agency shall submit to the Congress, not later than June 30, 1983, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 516(b) of the Federal Water Pollution Control Act. Such report shall be prepared in the same manner as is required by such section and shall reflect the changes made in the Federal water pollution control program by this Act and the amendments made by this Act. In preparing this report, the Administrator shall give emphasis to the effects of the provisions of section 18 of this Act in addressing water quality needs adequately and appropriately.

Sec. 21. For purposes of the Federal Water Pollution Control Act, the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allocated to the State of Michigan under such Act in an amount equal to the amount such works would be eligible for under section 202 of such Act if such works were to be constructed after the date of enactment of this Act, at the original construction cost.

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. CLAUSEN

Mr. CLAUSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLAUSEN: Page 15, after line 5, insert the following:

Sec. 22. Notwithstanding any other provision of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall make a grant to mitigate adverse impacts arising from the construction of a grant eligible treatment works from any funds allotted to a State under such Act if (1) the State no later than February 1, 1981, has made at least a preliminary determination that (A) the proposed works were a reasonable, necessary, and appropriate means of mitigation of impacts associated with the construction of grant eligible treatment works, and (B) the cost of the proposed works are grant eligible, and (2) the Step II construction grant on the underlying grant eligible treatment works was made no later than February 1, 1981.

Mr. CLAUSEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Chairman, my amendment has been developed with the committee leadership and is really a carryover from our full committee markup. It is a clarifying amendment designed to emphasize that certain costs incurred for environmental mitigation purposes are intended to be grant eligible under the construction grants program. The amendment requires that, for certain projects already in EPA's construction grants pipeline, the administrator is required to treat as grant eligible the costs to mitigate adverse impacts arising from the construction of qualifying treatment works when the State involved has already made a determination that the costs in question are both grant eligible and reasonable and necessary. The amendment in no way increases the amount of funds authorized for the construction grants program. Neither does it change any State's share of whatever construction grants funds are appropriated. It merely assures that a State will receive grant assistance for mitigation costs which the State has already determined are both grant eligible and reasonable and necessary.

Mr. Chairman, the amendment is designed to address situations like the two that have recently been brought to the committee's attention.

The first involves the expansion of the Southeast Sewage Treatment Plant located in the Bayview/Hunter's Point area of San Francisco. In order to mitigate the odors, noise, and visual impacts, and other adverse effects on the community identified in EPA's environmental evaluation of the proposed plant expansion, it was agreed that a greenhouse/skills training center would be constructed adjacent to the Southeast Sewage Treatment

Plant. The center is to be connected to the plant by pipes which will carry methane to heat the center. In addition sludge from the treatment plant will be used as fertilizer for the greenhouse.

A favorable grant eligibility determination and commitment to a $15 million greenhouse/skills training projects was made on January 22, 1981, by the California State Water Resources Control Board, which acts as EPA's representative in determining grant eligibility in the State of California. However, although EPA was fully aware of CSWRCB's decisions, it was not until several months ago that EPA informed San Francisco that the greenhouse/skills center would not be eligible for grant funding under the Clean Water Act. In the meantime, the city and county of San Francisco had begun construction of the expansion to the Southeast Sewage Treatment Plant.

The second matter intended to be covered by this amendment involves the Greater Eureka wastewater treatment project. In the Eureka project, approximately 139 acres of property adjacent to the proposed Eureka treatment plant are considered to be environmental mitigation for siting of the proposed treatment plant and holding pond on 16 acres of wetland. The 139-acre site is to be dedicated as permanent open space and maintained and managed as a wetland/wildlife area, having the dual purpose of acting as a demonstration project to improve water quality while at the same time insuring restoration and enhancement of habitat values of a substantial wetland area. On November 21, 1980, the California State Water Resources Control Board issued its concept approval letter informing the city of Eureka and the U.S. Environmental Protection Agency of its determination that the purchase of the 139 acres was grant eligible. A little less than 2 weeks later, on December 3, the city of Eureka's mayor signed and accepted a step II grant award. Subsequently EPA—incorrectly, we believe—overturned CSWRCB's determination and advised the city that acquisition of the 139 acres was not eligible for Federal grant funds.

Both of these cases involve U.S. EPA's refusal to abide by the grant eligibility determination made by the duly appointed agency of a State having construction grants program delegation responsibilities. Both involve mitigation measures arising from the construction of a grant eligible treatment works.

Both situtations involve costs associated with an integral part of the underlying grant eligible treatment works. In both instances, we believe EPA should abide by the CSWRCB's grant eligibility determination.

Mr. Chairman, the amendment is drafted narrowly to allay fears that it could unintentionally lead to the creation of some new grant eligible category. It is not at all our intention to create such a situation. Instead, we only intend to clarify that the costs associated with the environmental mitigation measures just described should be considered to be grant eligible under the Federal Water Pollution Control Act's current language and, therefore, the Administration of EPA is required to award Federal grants to cover 75 percent of those costs.

Mr. Chairman, I urge adoption of the amendment.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the distinguished gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we have reviewed this amendment on our side. It is a splendid amendment and it does speak to exactly what the bill was designed to achieve. It is a necessary element for the San Francisco and Eureka areas.

We have no objection to the gentleman's amendment.

Mr. CLAUSEN. Mr. Chairman, I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have reviewed the amendment also. I am sure we have unanimous agreement on our side to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Clausen).

The amendment was agreed to.

### AMENDMENT OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roe: Page 11, after line 22, insert the following:

(e) The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) or (b)(2)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the requests of the gentleman from New Jersey?

There was no objection.

(Mr. ROE asked and was given permission to revise and extend his remarks.)

Mr. ROE. Mr. Chairman, this amendment, in effect, achieves the goal of setting aside for a 1-year period of time the provision of the bill that would provide for a permit to be issued to an applicant applying after the date of enactment of H.R. 4503. This will give the committee a chance to continue to study the effect of ocean discharges. The information contained in the permit applications will be particularly helpful in that it will give us the precise details as to which communities as seriously interested in pursuing the option of ocean discharge.

I wish to point out that those applicants which are eligible for 301(h) waivers under existing law are not affected by this amendment. They will continue to remain eligible. Only new applicants are covered under this particular amendment.

I think for clarity's sake, if the gentleman from Arkansas would exchange some views with me, the committee has worked very, very hard on the whole precept, along with the very distinguished gentleman from Minnesota who offered an amendment in committee on this issue. We do feel that there is room for additional review of this entire matter; but it is not the intent of our committee to slow down or forestall any of the eligibilities that are now available under the existing law.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ROE. Yes, of course.

Mr. HAMMERSCHMIDT. Mr. Chairman, it is my understanding that the ocean discharge waiver provision has the potential to save many billions of dollars and to help us reach our Nation's clean water goals in an economic fashion with necessary environmental safeguards.

Mr. ROE. That is correct.

Mr. HAMMERSCHMIDT. I know that the gentleman from New Jersey has worked closely with the gentleman from California, because both gentlemen have particular coastal interests as it pertains to the Nation's clean waters.

Mr. ROE. That is right.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the gentleman's amendment. The ocean discharge waiver provision has the potential to save many billions of dollars and to help us reach our Nation's clean water goals in an economic fashion with necessary environmental safeguards. The amendment will permit new applications for new dischargers to be developed, submitted, and reviewed by EPA. The final decision on these new applications, with the exception of a specific site, would be delayed from 1 year of enactment. Those applications now pending with the Agency will remain eligible for final decision by EPA. At any time, I support the amendment and urge my colleagues to join me.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to compliment the gentleman for crafting this amendment, because it takes care of the exception that we were concerned about with regard to the Avalon area that the gentleman from California and I brought to your attention as the result of our hearings in Los Angeles.

Mr. ROE. Yes, a very important area.

Mr. CLAUSEN. Finally, it will permit new applications for waivers to go forward, but none of those waivers would, in fact, be approved for the 1 year, which will protect the concerns that have been expressed on the east coast during our dialog.

Mr. ROE. That is correct. I think basically what we are attempting to achieve, for members of the committee, is that there will be a very thorough reexamination of the entire ocean dumping permits. We want to protect our ocean waters. We want to protect our estuaries, but we do want to make it clear that there is room for flexibility in the program and that is the direction in which we are moving.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield further?

Mr. ROE. Yes, of course.

Mr. CLAUSEN. As the gentleman knows, the EPA administration itself is going through a major reevaluation of this. Of course, we in our committee have been holding hearings, as we did with the Oversight Committee in Los Angeles, that focuses attention on this.

There can be, as has been stated, billions of dollars saved, but we want to make sure it only applies to those areas where it is frankly environmentally acceptable.

Mr. ROE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Roe).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: page 11, after line 22, insert the following:

Sec. 17. Title V of the Federal Water Pollution Control Act is amended by redesignating section 518 (and all references thereto) as section 519 and by inserting after section 517 the following new section:

"LEGISLATIVE VETO

"Sec. 518. (a)(1) Simultaneously with promulgation or repromulgation of any rule under this Act, including an emergency rule, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), rules other than emergency rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of ———, which rule was transmitted to Congress on ———.', the first blank begin filled with the title of the rule and such further description as may be necessary to identify it, and the second being filled with the date of transmittal of the rule to Congress; or

"(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

"(b)(1) The Administrator may not promulgate a new rule or an emergency rule identical to one disapproved pursuant to this section unless a statute is adopted affecting the Administrator's powers with respect to the subject matter of the rule.

"(2) If the Administrator proposes a new rule dealing with the same subject matter as a disapproved rule, the Administrator shall comply with the procedures required for the issuance of a new rule, except that if less than 12 months have passed since the date of such disapproval, such procedures may be limited to changes in the rule.

"(c) The definitions set forth in section 551 of title 5, United States Code, shall apply to this section except that—

"(1) the terms 'rule' and 'emergency rule' shall not include—

"(A) rules of agency organization, practice, and procedure,

"(B) rules relating to agency management and personnel,

"(C) rules granting or recognizing an exception or relieving a restriction, or

"(D) rules adopted without public notice and comment pursuant to a valid agency finding that such notice and comment were unnecessary due to the routine nature or insignificant impact of the rule; and

"(2) the term 'promulgation' means filing with the Office of the Federal Register for publication.

"(d) For the purpose of this section—

"(1) continuity of session is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"(e)(1) The provisions of this subsection are enacted by Congress—

"(A) as an exercise of the rule making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (a) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Resolutions of disapproval of a rule shall, upon introduction or receipt from the other House of Congress be immediately referred by the presiding officer of the Senate or of the House of Representatives to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, as the case may be; and such resolutions shall not be referred to any other committee.

"(B) If a committee to which is referred a resolution which has not been adopted by the other House of Congress does not report out such resolution within 45 calendar days of continuous session of Congress after referral it shall be in order to move to discharge such committee from further consideration of such resolution.

"(C) If a committee to which is referred a resolution which has been adopted by the other House of Congress does not report out such resolution within 15 calendar days of continuous session of Congress after referral, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(D) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a resolution of disapproval or for reconsideration with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) Except as provided in subparagraphs (B) and (C) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(B) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed or disagreed to.

"(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.".

Redesignate succeeding sections accordingly.

**Mr. LEVITAS** (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Georgia?

There was no objection.

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

**Mr. LEVITAS.** Mr. Chairman, this amendment is the so-called legislative veto amendment. It is in the same form as is incorporated in H.R. 1776, which over 230 Members of this House have already cosponsored.

In effect, what it does, is let the Congress of the United States review the regulations issued by the Environmental Protection Agency under this program.

**Mr. ROE.** Mr. Chairman, will the gentleman yield?

**Mr. LEVITAS.** I will be happy to yield.

**Mr. ROE.** Mr. Chairman, the gentleman in my judgment has offered an extraordinarily important amendment to our bill. I know the gentleman has continuously followed these types of reviews by the Congress, which I have supported on every single occasion.

Having discussed this with my colleagues on this side of the aisle, we have no objection to the gentleman's amendment.

**Mr. LEVITAS.** I thank my colleague for that statement. The gentleman has been one of the most loyal and stalwart supporters of this concept to restore to the people control of the regulatory process.

**Mr. HAMMERSCHMIDT.** Mr. Chairman, will the gentleman yield?

**Mr. LEVITAS.** I would be happy to yield to the gentleman from Arkansas.

**Mr. HAMMERSCHMIDT.** Mr. Chairman, I have also examined the gentleman's amendment. Of course, I am very familiar with it, having supported it on other legislation many times in the past and we support it on this side of the aisle.

**Mr. LEVITAS.** Well, I thank my colleague, the gentleman from Arkansas, for that, because the gentleman has been a loyal supporter of this concept and it demonstrates the bipartisan support which this concept has without regard to what party happens to be in the oval office.

**Mr. CLAUSEN.** Mr. Chairman, will the gentleman yield?

**Mr. LEVITAS.** I am happy to yield to my colleague.

**Mr. CLAUSEN.** Mr. Chairman, I want to associate myself with the remarks of the gentleman from Georgia, as well as the other Members, because this has been a traditional effort on the part of the committee to bring about the kind of legislative veto that will permit us to execute some sort of check and balance on the regulatory process.

I am proud to be associated with the gentleman.

**Mr. LEVITAS.** Mr. Chairman, I thank my friend, the gentleman from California, for that. The gentleman was one of the earliest cosponsors of this legislation.

Again, I think it demonstrates the wide broad-based support in Congress for this concept.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

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### AMENDMENT OFFERED BY MS. FERRARO

**Ms. FERRARO.** Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. FERRARO: Page 9, after line 10, add the following:

"(c) In furtherance of the policy set forth in subsection (a) of this section, the Administrator shall require value engineering review in connection with any treatment works, prior to approval of any grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of such treatment works, in any case in which the cost of such erection, building, acquisition, alteration, remodeling, improvement, or extension is projected to be in excess of $10,000,000. For purposes of this subsection, the term 'value engineering review' means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

Page 9, line 11, strike out "(c)" and insert in lieu thereof "(d)".

**Ms. FERRARO** (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **CHAIRMAN**. Is there objection

to the request of the gentlewoman from New York?

There was no objection.

(Ms. FERRARO asked for and was given permission to revise and extend her remarks.)

Ms. FERRARO. Mr. Chairman, I rise as a member of the Committee to offer an amendment. The amendment is at the desk.

This amendment directs the Administrator of EPA to require that value engineering be used on any treatment works with a total cost of greater than $10,000,000.

The amendment establishes as a matter of law a procedure that the EPA has mandated by regulation, with great success, since 1977.

Value engineering is a systematic, multidisciplinary, functional analysis of a project's design which is used to determine least cost alternatives without sacrificing the reliability or efficiency of the project.

The process was first devised by General Electric in World War II to deal with materials shortages, and was first introduced into Government in the early sixties by Robert McNamara at the Defense Department. My understanding is that the Corps of Engineers has used it for years on some projects with total savings estimated at $750 million. The Federal Highway Administration has also used VE since 1975.

EPA first introduced value engineering, by regulation, as a voluntary measure on construction grant projects in 1975. The decision to adopt VE was made in response to a congressional directive, much like the one in section 13 of H.R. 4503, that the most cost-effective means be employed in the construction of sewage treatment plants.

In 1975-76, used voluntarily on eight projects, VE saved some $16 million. This success led EPA, again by regulation, in 1977 to make VE mandatory for any project with a total construction cost exceeding $10 million. In the 4 fiscal years 1977-80, on projects that have been reported to EPA, VE has resulted in net savings of $156 million.

This program, I should add, is operated with very low administrative overhead, with not a single EPA staff person assigned to deal with it full time.

Despite the program's tremendous success, EPA had planned to change VE back to a voluntary program. As I understand it, the change was to have been proposed, as part of an agencywide regulatory review, in regulations EPA expects to publish in early November.

This morning, however, I learned that the decision to drop VE has apparently been reversed in recognition of the success of the program and the concern it generated in Congress.

Clearly, in this time when the funding for construction grant program is being slashed, we cannot afford to abandon proven cost-saving techniques. If we are serious about the fight against waste in Federal spending, value engineering is one of the best weapons we have.

The argument—in fact, the only argument—that has been raised against making VE mandatory by law, is that such a move may be unnecessary. If VE is such a good technique, the argument goes, then surely the States and cities will use it regardless of whether we mandate it.

The problem, though, is that while the States will make the decision on whether to use VE, because of the construction grant program's funding formula, most of the savings accrue to the Federal Government.

VE saves an average of 5 to 10 percent of total project costs. Since States are only paying a maximum of 25 percent, and frequently less, of a project's costs, their savings are only 5 percent of the 25 percent of the project costs, which is not a huge amount of money, especially on an individual State basis. The savings to the Federal Government, which pays 75 percent of the project costs, however, are considerable, establishing a substantial Federal interest in mandating the use of VE.

In these times of reduced Federal budgets, we need to make the best use of limited Federal dollars. In fact, as I have stated, section 13 of H.R. 4503 requires the use of the most economical and cost-effective combination of treatment works be used to meet the requirements of the act. VE is a valuable tool in achieving this goal.

I think the case is clear. Value engineering has been used successfully to reduce costs in this program. I have spoken with EPA, and with the Association of Metropolitan Sewer Agencies, and with various others with an interest in this issue, and have found no opposition to value engineering.

In the interests of efficient Government, and to help in the fight against waste in Federal spending, I urge your support for this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I will be happy to yield.

Mr. Chairman, I rise in support of the amendment. I have been informed that the value engineering program of the construction grants program has provided a good means of saving money and improving the design of waste water treatment plants. Value engineering is especially important in larger projects. For those over $10 million, the return in savings can be substantial. I do support the amendment and urge my colleagues to vote for it as well. I thank the gentleman.

Mr. ROE. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I share the observation of the distinguished gentleman from Arkansas. We, too, have reviewed the context of this amendment. It is splendid. It adds to the substance of the act, and we have no objection on this side of the aisle.

Ms. FERRARO. Mr. Chairman, I am delighted by the support of the committee for the amendment. I believe it is in the interests of efficient Government and will help in the fight against waste and Federal spending.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. FERRARO).

The amendment was agreed to.

Mr. HALL of Ohio. Mr. Chairman, I move to strike the last word.

(Mr. HALL of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Chairman; I am aware that the bill before us today, H.R. 4503, deals expressly with those provisions of the Federal Water Pollution Control Act establishing a program of sewage construction grants. Still, I would like to take this opportunity to bring forth my concerns—concerns which I have discussed in great detail with the members of the Public Works and Transportation Committee—on section 404 of the Federal Water Pollution Control Act.

The Rules Committee, on which I sit, last week granted the rule for the consideration of H.R. 4503. I had intended, during these proceedings, to request a waiver of the germaneness clause on an amendment to H.R. 4503. In short, my amendment called for an exemption of the Miami Conservancy District from the permit requirements mandated by section 404.

I had originally chosen to amend H.R. 4503 because during the Rules Committee considerations, and as of yet, no definite schedule for reviewing section 404 has been made. My water conservancy district has endured a series of frustrating encounters with the U.S. Corps of Engineers and its system of administering the 404 program. I simply feel that the time has come to resolve these problems.

The Miami Conservancy District was created on June 28, 1915. It has developed one of the most comprehensive flood control systems in the Nation. The total system provides flood protection for nine cities in the great Miami River basin in southwestern Ohio. The Conservancy District has enjoyed a long history of responsible action in maintaining the waters within its jurisdiction free from flood-causing obstructions and in constructing dams and other projects where necessary to temper the destructive forces posed by flood water.

The Federal regulations promulgated by the Corps of Engineers have caused the Conservancy District difficulty in accomplishing total maintenance responsibilities assigned under Ohio law. In addition, these regulations have resulted in long delays, in project completions. I would like to cite an example which I believe clearly establishes this point. The Miami Conservancy District applied for a general maintenance permit from the corps in February, 1978. On August 10, 1981 it received partial approval from the corps to undertake activities requested in the application. I cannot even begin to estimate how long it will be before action is completed on the remaining request. What I do know is that after close to 3½ years, the corps has been unable to make total response to this application request.

The Miami Conservancy District operates entirely on local funds. No Federal moneys are used to facilitate its projects. The people of the Miami Valley who pay the total cost to maintain the local flood protection system, in this particular instance, can only wait for the corps' decision on this project. To say the least, it is particularly disheartening when a responsible, widely respected, locally financed agency is prevented from accomplishing its legally mandated functions because of incompetence and redtape at the Federal level by the agency administering the 404 program.

Another point which I would like to raise, Mr. Chairman, is the Corps of Engineers' jurisdiction over navigable waters as pertains to the Miami Conservancy District. Since 1899, the corps has had jurisdiction over navigable waters of the United States. The definition of navigable waters covers those waters which are, in the past were, or in the future could likely be used for commercial water transportation. The body of water falling under the responsibility of the Miami Conservancy District meets none of these criteria. In fact, Judge Carl Rubin for the U.S. District Court in the southern district of Ohio recently held that "the Great Miami River and its tributaries are not navigable."

Mr. Chairman, I strongly support the objectives of the Federal Water Pollution Control Act. Its goals are commendable and should be pursued. I do not seek to subvert these objectives, I seek only to resolve the problems plaguing the operations of the Miami Conservancy District.

I should like to take this time to share the text of an editorial which appeared in one of my district's newspapers. I think this editorial summarizes quite well the concerns I have expressed here today.

Mr. Chairman, the editorial follows:

[From the Dayton Daily News, May 20, 1951]

### IN CONFLICT: OUR OWN RIVER AGENCY V. ENGINEERS CORPS

The Miami Conservancy District is the 20th century prototype of modern river management. The U.S. Army Engineers Corps is the archetype of federal bureaucracy.

As confrontation drama, their jurisdictional conflict isn't a patch on "Little Red Riding Hood." Yet the clash itself, and how the district resolves it, is important to the valley that pioneered in 1919 a river engineering model the Corps said at the time wouldn't work.

We—not Washington—invented a flood control agency. We financed its dams, levees, flood plain safeguards against a repeat of 1913's disaster. We pay for their maintenance. Whatever runs up Conservancy District operating costs—always frugally managed—comes out of pockets here.

In recent years, as federal law and court rulings broadened Engineers Corps control over waterways, permit requirements began to hamper the district's custodial work. Half the handcuff—Corps jurisdiction over structural work on "navigable" streams—was struck off in U.S. District Court Feb. 20. Judge Carl Rubin ruled the Great Miami system never had been commercially navigable. The Corps may appeal.

For relief from the rest of the handicuff—Corps jurisdiction over dredge and fill operations—the district requested in 1978 a general permit for routine flood control maintenance. The Corps has refused.

To free itself to do what it must, the Dayton-based agency now turns to Congress. Rep. Tony Hall (D-Dayton) will try to get a Public Works bill amendment exempting the Great Miami River Basin from the 1972 Clean Waters Act, Section 404.

This permit program gives the Corps authority over dredging and filling along major and minor watercourses and requires analysis of environmental impact by the Corps, the EPA and the Fish and Wildlife Service. Except where it interferes with the work of an agency with a known concern for the public interest, Section 404 is good law.

It has protected vital U.S. shorelands, waterways and wetlands against pollution, ill-advised flood plain development, channelization that lowers water tables, destruction of fish and bird life-cycle habitats—a range of conversion follies. Nationwide anti-regulatory and environment-be-damned sentiment unfortunately has targeted its repeal.

In electing to go it alone, seeking only its own exemption from 404 permits, the Conservancy District takes the difficult course, but the wise one. It has been ahead of its time in every movement linking life-quality to the natural environment—flood control, pollution abatement, open space reserves, the urban-suburban amenities of river rediscovery. The agency's do-it-yourself spirit is vanguard still.

Mr. HALL of Ohio. Mr. Chairman, I strongly support the objectives of this bill. I think it is an excellent bill, and at this time, if I may, I would like to ask a few questions of the distinguished subcommittee chairman.

Mr. Chairman, during the Rules Committee hearings on the rule for H.R. 4503, I had urged the chairman to schedule hearings on section 404. Will such a schedule be set?

Mr. ROE. Mr. Chairman, if the gentleman will yield, I want to compliment the gentleman from Ohio. I know he has been pursuing a resolution to a very legitimate problem that exists in his State and in his district. I feel very sympathetic toward that, and as soon as time permits within the immediate future, we will be holding a set of hearings on section 404.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HALL of Ohio. I will be glad to yield.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to thank the gentleman for his explanation, for his remarks, and associate myself with the remarks of the distinguished chairman of the subcommittee and promise our full cooperation with the gentleman in the well.

Mr. HALL of Ohio. I thank the gentleman. If I may, I would like to ask another question. Will it be permitted at this time, when this particular section will come up in subcommittee, to have representatives from the conservancy district and myself appear before the subcommittee and explain this problem in detail?

Mr. ROE. We would welcome that opportunity because I think that kind of exchange adds a great deal to the knowledge of the committee. It might even be—and I talked about it with Mr. CLAUSEN, Mr. HOWARD, and Mr. HAMMERSCHMIDT—that it would be to the gentleman's people's needs for us perhaps to journey to Ohio. That would give more people a chance to participate. We would be pleased to hold a hearing at the gentleman's convenience.

Mr. HALL of Ohio. I have one final question.

Mr. Chairman, does the subcommittee intend to consider legislation to address the problems of this section 404, the permit procedures?

Mr. ROE. By all means; yes.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. HALL of Ohio was allowed to proceed for 1 additional minute.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I was just going to say that I have discussed this matter with not only the gentleman from Ohio, but that the Miami Conservancy District is one of the finest total water management concepts in place, I think, in the Nation. As a matter of fact, it is a model, so I think what the gentleman is suggesting certainly does have legitimacy. To me, as far as I am concerned, I would want to take a look at this in the context of the overall 404 program. I will join my colleague, the ranking minority member, Mr. Hammerschmidt, and the gentleman from New Jersey in working with the gentleman from Ohio.

**Mr. HALL of Ohio.** I thank the gentleman for his comments.

### AMENDMENT OFFERED BY MR. EVANS OF IOWA

**Mr. EVANS of Iowa.** Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Evans of Iowa: Page 3, after line 3, add the following new subsection (1):

(1) In administering those provisions of section 201 which require appicants to consider a variety of design alternatives, the Administrator shall ensure that planning and design efforts to comply with those provisions are conducted in a manner that leads to sound design decisions at reasonable cost. Administrative, procedural and technical requirements of the Agency shall:

(1) Discouage duplicative or repetitive studies and reviews;

(2) Encourage use of engineering and economic data and conclusions in existence from other similar projects;

(3) Encourage procedures that allow unattractive options to be eliminated early in the design process;

(4) Take such other actions as will ensure that study and design costs are reasonable and in line with engineering and industry standards for comparable work.

**Mr. EVANS of Iowa** (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Iowa?

There was no objection.

(Mr. EVANS of Iowa asked for and was given permission to revise and extend his remarks.)

**Mr. EVANS of Iowa.** Mr. Chairman, this amendment addresses the problem that, in our clean water program, in my judgment we spend far too large a share of our scarce source of engineering funds on studies and on design and in supervision of construction as opposed to the actual construction of facilities. I say that as a registered civil engineer and member of the profession that reaps most of the financial benefits of our generous funding for our engineering services for our clean water program.

To illustrate the problem, there is extensive data that shows that complete engineering services, including planning and design and construction supervision, should cost from 7 to 9 percent of the total project cost for waste water treatment systems and for similar facilities. Yet, all the records indicate that engineering services for new waste water treatment systems constructed under this act today average perhaps 25 percent of the total project cost. On construction that is modification of existing plans, the engineering services can go to 30 percent or beyond, and I am sure it is clear to all of us that the difference between 7 to 9 percent and 25 to 30 percent of the cost of cleaning up this Nation's water amounts to many billions of dollars at a time when billions of dollars are in extremely short supply.

The amendment attempts to get at that problem. What it does is, it instructs the agency that in administering provisions which require applicants to consider a variety of design alternatives—and that is what we usually do—the administrator shall insist that planning and design efforts are conducted in a manner that leads to some design decisions at reasonable cost. Under this amendment, we would ask the agency to do four things:

First, to discourage duplicative or repetitive studies and reviews, and we have many of those.

Second, to encourage the use of engineering and economic data and conclusions in existence from other similar projects, and there is much of that data available.

Third, to encourage projects that allow unattractive suggestions to be eliminated early in the design process.

Fourth, to take such other actions that are necessary that study and design costs are reasonable and in line with engineering and industry standards for comparable work.

Mr. Chairman, I understand that the committee is reluctant to accept an amendment of this type at this time. I am prepared to withdraw the amendment. However, I would like to hear the views of the subcommittee chairman on the attitude of the committee on this particular subject.

**Mr. ROE.** Mr. Chairman, if the gentleman will yield, I think he makes several excellent points which I wholeheartedly agree with. I have had the opportunity to discuss this amendment, as the gentleman knows, with the distinguished gentleman from Iowa, and I think many of the points and constraints he has suggested in his proposed amendment are worthwhile.

I think that we have to put the feet to the fire, if you like, of the Environmental Protection Agency, to use every available opportunity to reduce costs. This is certainly a field in which the gentleman is highly knowledgeable, and I am sure can be helpful.

I would guarantee the gentleman that what we will do, and having discussed this with my counterpart on the other side of the aisle, we will include his observations and discussions in the report that will go with this legislation, and direct the EPA to follow the thoughts and suggestions the gentleman has projected.

**Mr. EVANS of Iowa.** I thank the

gentleman. I would add these remarks, if I may: That the specific wording of the act does not really encourage this sort of economy at the present time. I would strongly urge that the subcommittee, at its convenience, examine the desirability of making some changes in the law that would accomplish this goal.

Mr. ROE. If the gentleman will yield further, we definitely think the gentleman is absolutely on the right track. We will take this up as a very viable part of these hearings, which are going to start very shortly.

Mr. EVANS of Iowa. I appreciate the gentleman's cooperation.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection of the gentleman from Iowa?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last world.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I take this time to engage the managers of this bill in a colloquy on a matter of great importance to my district and, for that matter, to the entire Nation.

□ 1430

I would like to ask my good friend, the distinguished ranking Republican member, the gentleman from Arkansas (Mr. Hammerschmidt), if he would answer a question that I will pose to him.

Mr. HAMMERSCHMIDT. I will be pleased to respond to my good friend and colleague, the gentleman from California.

Mr. LAGOMARSINO. I would like to clarify a matter that relates to my district, as I said. The city of Lompoc, Calif., which has a population of just over 25,000, is adjacent to Vandenberg Air Force Base. Vandenberg is the center of activity for a number of important new national defense programs, most notably the Space Shuttle and MX missile test program. The personnel requirements associated with these programs have created the need to construct a new interceptor sewer north of the city to provide wastewater treatment service to the new area residents.

Would the city of Lompoc be eligible under H.R. 4503 to receive 75 percent Federal grant assistance to construct its interceptor sewer?

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I assure the gentleman that under the current provisions of the committee bill the city of Lompoc would indeed be eligible to receive construction grants program funding equal to 75 percent of the cost to construct the interceptor sewer in question. In a situation such as this, where other Federal programs result in a heavy infrastructure burden being placed on a local community, it seems especially appropriate that assistance under the construction grants program be available to offset some of the cost associated with building the necessary wastewater treatment infrastructure.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman I want to identify and associate myself with the remarks of my distinguished friend, the gentleman from Arkansas, and I support the position that he has just described.

Mr. LAGOMARSINO. Mr. Chairman, I thank the managers of the bill for their comments.

It is my understanding, then, that there is support for construction grants program assistance for the city of Lompoc's interceptor sewer project.

Mr. HAMMERSCHMIDT. Mr. Chairman, if the gentleman will yield further, I assure the gentleman that there is support on the committee for the Lompoc project.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, as further amplification of the colloquy that has taken place, I really believe that what is involved here is a matter of prioritization for the State of California as well. As has been indicated, this would be a grants eligible project under this legislation, as the gentleman from California has pointed out and as stated by the gentleman from Arkansas and the gentleman from New Jersey.

So I would certainly work with the gentleman, because I know the urgency of the matter, in order to see if we can get the project sponsors to work more closely with the State of California and those who have the authority over the actual prioritization.

Mr. Chairman, I certainly want to thank the gentleman for bringing this matter to our attention, and I assure him of my support.

Mr. GUNDERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take time to engage my distinguished colleague from Arkansas, the ranking minority member on the subcommittee, in a colloquy on this important legislation.

Mr. Chairman, with the passage of the Federal Water Pollution Control Act in 1972, the Congress established a national priority to assure fishable and swimmable lakes, rivers, and streams for present and future generations. An interim date of July 1, 1983, was set for the attainment of that goal and the country embarked on a campaign to clean up its waters.

The work has continued up to this point through the joint efforts of Federal, State, and local governments with the Federal Government providing 75 percent of project funding.

However, due to recent budget cutbacks, the Federal share in these projects has been significantly reduced and the financial burden for completion shifted onto the local communities. It is a sudden expense none of the towns anticipated and are ill prepared to accept. While these communities have every intention of complying with the act, the 1983 deadline has become an impossibility.

The National Governors Association recognizing this problem has proposed a modification in the program which would extend the deadline for compliance to 1990.

In my own district I have more than a dozen towns and villages which are willing but unable to comply with the 1983 deadline. As a result, I introduced H.R. 4668 to extend the deadline to 1990.

Mr. Chairman, such an extension would allow these hard pressed communities the time to raise necessary funds for completion of municipal sewage treatment projects.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, our distinguished colleague from Wisconsin (Mr. GUNDERSON) raises an issue that I have been concerned about and one which I have discussed with the committee leadership. As the committee knows, in my own district, the current 1983 municipal compliance deadline is causing a measure of disruption. One of the city of Fort Lauderdale's wastewater treatment plants is being forced to divert its flow into the Broward County Central Regional Wastewater Treatment Plant, before the latter will be able to handle that flow. The resultant overload to the regional plant could preclude any additional flow to it and result in a sewer hookup moratorium that would bring downtown Fort Lauderdale's development to a standstill.

Mr. Chairman, it is my understanding that hundreds of communities nationwide could have problems similar to ours in Fort Lauderdale. Our colleague from Wisconsin's description of the situation in his district would seem to bear this out. It would, therefore, seem appropriate that the Committee address this important issue.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, both of these gentlemen have spoken to us about an issue that is an extremely important one. It is also an issue that I believe may see substantial support for being resolved along the lines they seek; that is, extending the current municipal deadlines. In fact, last year when the Public Works Committee developed its ICR-repeal bill, H.R. 6667, the bill contained a municipal compliance deadline extension provision. Unfortunately, that provision was rejected by our 96th Congress Senate counterparts.

The legislation before us today, H.R. 4503, deals only with EPA's construction grants program. We have purposefully attempted to save other Clean Water Act issues—like the industrial portions of the act, the permit provisions, and municipal compliance deadlines—until next year when we plan to examine the entire act.

Mr. GUNDERSON. I appreciate the remarks of the gentleman. Does the gentleman agree that these communities face serious hardships brought on by the sudden reduction in funds?

Mr. HAMMERSCHMIDT. The gentleman is correct. Many communities are likely to find it more difficult to meet the current statutory compliance deadlines.

Mr. GUNDERSON. Do we have the gentleman's assurance that he will support full consideration of a municipal deadline extension in future water pollution control legislation?

Mr. HAMMERSCHMIDT. The gentlemen have my assurance and are to be complimented for raising this issue, on behalf of their constituents here today.

Mr. GUNDERSON. Mr. Chairman, I thank the gentleman for this diligent work and sincere concerns in this area.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCHUGH) having assumed the chair, Mr. STRATTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes, pursuant to House Resolution 247, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under

the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOWARD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 18, not voting 33, as follows:

[Roll No. 280]

YEAS—382

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Brown (OH)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Carman
Carney
Chappell
Chappie
Chisholm
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dornan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Foglietta
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—18

Cheney
Conable
Crane, Daniel
Crane, Philip
Dannemeyer
Dreier
Hansen (ID)
Hartnett
Hiler
Johnston
Lee
Lungren
McDonald
Paul
Rousselot
Smith (OR)
Solomon
Thomas

NOT VOTING—33

Beard
Bethune
Biaggi
Burton, John
Campbell
Clay
Crockett
DeNardis
Dingell
Dougherty
Early
Edwards (CA)

Fary
Fithian
Florio
Foley
Fuqua
Goldwater
Gray
Hansen (UT)
Jones (NC)
LeBoutillier
Leland
Lowery (CA)
Marlenee
Moffett
Pashayan
Richmond
Savage
Shuster
Smith (PA)
Stark
Udall

□ 1445

The Clerk announced the following pairs:

Mr. Fary with Mr. Marlenee.

Mr. Richmond with Mr. Bethune.

Mr. Udall with Mr. Shuster.

Mr. Biaggi with Mr. Smith of Pennsylvania.

Mr. Early with Mr. Beard.

Mr. Gray with Mr. Pashayan.

Mr. Jones of North Carolina with Mr. Lowery of California.

Mr. Leland with Mr. LeBoutillier.

Mr. Stark with Mr. Dougherty.

Mr. Clay with Mr. Campbell.

Mr. Crockett with Mr. Hansen of Utah.

Mr. Dingell with Mr. Goldwater.

Mr. Edwards of California with Mr. Savage.

Mr. Moffett with Mr. John L. Burton.

Mr. Florio with Mr. Foley.

Mr. Fuqua with Mr. Fithian.

Mr. SMITH of Oregon changed his vote from "yea" to "nay."

Messrs. DECKARD, WORTLEY, and MARTIN of New York changed their votes from "nay" to "yea."

So, the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**97th Congress** } HOUSE OF REPRESENTATIVES { **Report**
*1st Session* } { No. 97-270

# FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1981

**October 9, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed**

Mr. Howard, from the Committee on Public Works and Transportation, submitted the following

## REPORT

together with

## ADDITIONAL VIEWS

**[To accompany H.R. 4503]**

**[Including cost estimate of the Congressional Budget Office]**

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

### Introduction

In 1972 Congress responded to the need to strengthen Federal and State efforts to control the discharge of pollutants into our waters and established a comprehensive, national approach to water pollution control. The Federal Water Pollution Control Act Amendments of that year (Public Law 92-500) were a complete rewrite of existing water pollution control laws and stand as one of the great landmarks of environmental legislation. The Amendments established as goals the reduction and ultimately the elimination, of discharges of pollutants from municipal sewage systems and industrial plants. An interim goal, set for July 1, 1983, was to achieve, wherever attainable, fishable and swimmable water quality in all the rivers, lakes and streams of our Nation.

Public Law 92–500 established two primary mechanisms for the accomplishment of these goals. First, all industrial and municipal dischargers were required to treat their wastes to clearly definable minimum levels based on best practicable and best available technologies. Beyond those minimum levels, dischargers were required to comply with any more stringent State or Federal requirements based on receiving water quality standards. These requirements were to be enforced nationwide through permits which are required for every point source discharging into navigable waters.

The technology-based minimum treatment requirements were to be imposed in increasingly stringent steps. For industries, effluent limitations reflecting application of the best practicable control technology currently available (BPT) were to be achieved by 1977. The corresponding 1977 effluent limitation for municipalities was secondary treatment. By 1983 industries were to achieve effluent limitations corresponding to the best available technology economically achievable (BAT). By 1983, all pubicly owned treatment works for municipalities were to be applying the best practicable waste treatment technology over the life of the works (BPWTT).

The second mechanism was a significantly strengthened program of grant assistance to municipalities for the construction of sewage treatment facilities to meet these effluent limitations and other requirements of the law. The Federal share of eligible project costs was raised to 75 percent and $20.75 billion was authorized for grants, including reimbursement grants, for the construction of treatment facilities under the new law.

These two fundamental pillars of the Nation's water pollution control effort have remained essentially intact since the 1972 Amendments, although there have been several additional amendments. The most important changes were enacted in 1977. These were the "midcourse corrections" which had been contemplated since 1972. The 1977 Amendments, known as the Clean Water Act (Public Law 95–217), authorized an additional $25.5 billion for the construction grants program. In addition, it established a program for encouraging innovative and alternative approaches to wastewater treatment and initiated a mechanism for turning over more of the management of the grants program to the States. For municipalities which had not been able, despite good faith efforts, to meet the 1977 deadline for secondary treatment because of inadequate funding, the deadline was extended to 1983.

Significant progress has been made in carrying out the construction grants program in the nine years that have elapsed. It is clear that the Nation has been making progress, through the construction and upgrading of municipal treatment plants under the grants program, in reversing the trend of increasing degradation of the quality of our surface waters. Today, these facilities are removing 65 percent more biochemical oxygen demand (BOD) and total suspended solids (TSS) than in 1973. Because of this progress by municipalities and industry, the Council on Environmental Quality, in its December 1980 Report to the President, was able to state that major degradation of surface waters in the United States appears to have stopped, in spite of a growing population and an increase in gross national product.

Water quality improvements have been achieved despite a history of funding problems and the long completion times typical of most construction grants projects. These funding problems have resulted from appropriations below the authorized level, presidential impoundments in the early years of the program, deferrals, and rescissions. These fluctuations and reductions in funding have resulted in a stretch-out of the completion times expected for municipal treatment projects and the postponement of the 1977 secondary treatment requirements for many municipalities. The completion times have been lengthy, even when funding was available, ranging from an average of 7½ years for small projects to 11½ years for very large projects. The Committee has received testimony over the years that regulations for the construction grants program have contributed to these delays. Thus, while over twenty th~~ousand~~ grants have been awarded in approximately ten thousand sewage jurisdictions, fewer than three thousand projects have gone entirely through all the grant steps to completion. The vast majority of the funds spent have gone toward projects which are still "in the pipeline." For this reason, while substantial benefits have been achieved by the program to date, the most significant benefits are still to be realized. This will not occur, however, without continued adequate funding to allow attainment of the benefits associated with those needed projects now under way.

In 1981, the construction grants program is once again faced with the prospect of funding delays and instability. Currently, no appropriations are authorized for Fiscal Year 1982. The Administration has indicated that if certain changes in the program are enacted, funding will be requested.

In April of this year, the Administration submitted to Congress proposed changes in the Federal Water Pollution Control Act. The Administration bill would limit Federal grant assistance to projects for secondary or more stringent treatment, or any cost-effective alternative thereto, and interceptors and appurtenances. Eliminated from Federal grant assistance would be such categories as infiltration/inflow correction, major sewer system rehabilitation, collector sewers, and correction of combined sewer overflows.

The Administration bill would also eliminate grant assistance for construction of reserve capacity to meet future needs. The size and capacity of the treatment works eligible for a grant would be based upon 1980 population levels.

The Administration proposal contains a number of other provisions. It would revise the formula under which the States are allotted their respective shares of the appropriated construction grant funds. The present allotment formula was adopted by Congress in 1977 and is applicable to Fiscal Years 1978 through 1981. It has based on a combination of population and the needs of the States to meet the requirements of the Federal Water Pollution Control Act. The Administration's revised allotment formula would be based on a State's needs as a percentage of total national needs as reflected in the 1980 Needs Survey. In computing the percentage, only the needs for secondary and more advanced treatment and interceptors would be counted and no reserve capacity would be included.

The Administration bill would make the presently mandatory 3-percent set-aside of grant funds for innovative and alternative technology and 4-percent set-aside of grant funds for alternative systems in rural States discretionary at the request of the Governor. In addition, the legislation would allow a Governor to reduce the 75-percent Federal share on a category-by-category basis as well as by project step; change the manner in which the States' grant funds for program administration are calculated; and repeal the authority in existing law to reimburse local communities which construct treatment works with their own funds. Finally, the legislation would direct a State in establishing its priority list for projects to give highest priority to those projects which will directly benefit areas of urban-industrial concentration and will result in significant public health or water quality benefits.

The Administration's position that no funding for the construction grants program should be provided in Fiscal Year 1982 until legislative modifications of the construction grants program had been enacted was reflected in the Omnibus Reconciliation Act (P.L. 97-35). This Act contains a provision reducing the Fiscal Year 1982 authorization to zero. However, it authorizes $2.4 billion when legislation revising the construction grants program is enacted into law.

H.R. 4503 is the Committee's response to this call for modifying legislation. The Committee wishes to point out that such legislation is only one step to be taken to obtain funding for the construction grants program in Fiscal Year 1982. In addition, an appropriation will have to be made, and the spending ceiling in the final Budget Resolution will have to be sufficient to accommodate the appropriation.

The Committee held extensive hearings on the Administration's legislative proposal and has examined it very thoroughly. We are concerned that it would have an extremely disruptive effect on the construction of municipal treatment works which are already receiving Federal grant assistance.

Projects for waste treatment works are divided into three steps. Step 1 is the planning phase in which the overall facility plan for the project is developed. This involves consideration of alternatives, the determination of the size and scope of the project, and development of other required information to enable the actual design work to begin. This design work, in which construction drawings and specifications are prepared, is Step 2. Step 3 is the actual construction.

This process is immensely complicated by the fact that grants are not ordinarily made for the entire amount of work involved in any one of the steps. They are, rather, "segmented" or "phased". A segmented grant is one made for any portion of a project such as an interceptor sewer, outlet works or various other portions of the overall plan. Indeed, it is not unusual for parts of an overall project to have a Step 3 grant while other parts are still undergoing design under a Step 2 grant. A phased grant arises where an overall project is approved and the grant funding for that project is phased over a number of years.

Under the Administration's proposal, a project could be partially under construction or partially under design and suddenly face a change in eligibility for a grant. For example, if a project including reserve capacity had been approved and the interceptors and outlet works were under construction, the municipality would find that it would not be receiving grant assistance for reserve capacity in connection with the design and construction of the remaining parts of the overall project which had not yet received a segmented grant. Yet the requirement in the Act for inclusion of adequate reserve capacity would still be applicable. The municipality would then have to seek additional local funding through such measures as the issuance of municipal bonds.

The Committee feels very strongly that forcing a redesign or a reentry into the bond market after a project is under way would be not only disruptive but costly because of the delays which would be involved. We determined, therefore, that it was essential to preserve existing grant eligibility provisions for those projects which are already under way.

For this reason, the Committee's bill retains existing categories of eligibility for projects which have received a Step 1, 2 or 3 grant. It also retains current eligibility for reserve capacity for projects which have received a Step 2 or 3 grant and reduced funding for reserve capacity for projects which are in Step 1. The Committee recognizes the necessity of reducing the projected Federal costs for this program and of assisting the States and localities to become self-sufficient insofar as the treatment of municipal waste is concerned. To this end H.R. 4503 would reduce reserve capacity for treatment works to ten years and eligible categories to secondary or more stringent treatment and interceptors and appurtenances, while retaining discretion on the part of the Governor to us up to 30 percent of the State's allotment on other categories. Moreover, H.R. 4503 authorizes only $2.4 billion for Fiscal Year 1982 for construction grants—a figure which is consistent with that contemplated in the Reconciliation Act, and well below the Fiscal Year 1981 original funding level of $3.3 billion.

The 1980 Needs Survey prepared by EPA estimates the total costs of municipal treatment to meet the goals of the Act through the year 2000 to be $120 billion. The 75-percent Federal share of this is $90 billion. It is this $90 billion which has come to be referred to as the "Federal exposure." The Administration's bill would reduce this Federal exposure to approximately $23 billion. However, this would be accomplished at enormous costs to the program in disruption and delay. H.R. 4503, as reported, reduces the exposure by some $40 billion, a substantial amount but one which minimizes disruption for ongoing projects and preserves some flexibility for States and municipalities in meeting water quality needs. The Committee wishes to emphasize that while the amount of "Federal exposure" is informative to some degree, it is not determinative of what the Federal government will ultimately spend in this program. The amount of expenditures will be governed by authorization and appropriation acts.

The Committee intends to address the multiyear funding needs of the construction grants program and other issues in the program, as part of a comprehensive review of the entire Federal Water Pollution Control Act, which the Committee will conduct next year.

## ANALYSIS OF H.R. 4503, AS REPORTED

### SECTION 1

This section provides that the Act may be cited as the "Federal Water Pollution Control Act Amendments of 1981".

### SECTION 2

This section amends Section 201(g)(5) of the Federal Water Pollution Control Act. Section 201(g)(5) provides that the Administrator of EPA shall not make any grants for the construction of treatment works unless the grant applicant has demonstrated that innovative and alternative wastewater treatment processes and techniques have been fully studied and evaluated by the applicant. The techniques which must be studied and evaluated include the reclaiming and reuse of water, recycling technologies, land treatment and the confined disposal of pollutants so that pollutants will not migrate to cause water or other environmental pollution. In studying and evaluating these tchnologies, the applicant is to take into account and provide for, to the extent practical, the more efficient use of energy and resources.

Section 2 modifies this provision to require the applicant to study and evaluate these various innovative and alternative technologies taking into account and providing for, to the extent practical, the most efficient use of energy and resources which will result in the lowest net cost of water and sewer service to the consumer. The purpose of the section is to provide a mechanism for evaluating the relative costs and savings associated with usable water which might be obtained from a particular treatment process. If a municipality, for example, can realize appreciable savings through the production of usable water through a particular treatment process, even though that treatment process is more expensive than others, the savings to the municipality associated with the usable water being made available may offset the increased costs associated with the treatment process. The provision does not alter the applicability of Section 201(j) of the Federal Water Pollution Control Act. Rather, it simply encourages an applicant to consider a broader range of approaches when it is undertaking preparation of its Step 1 facilities plan.

### SECTION 3

This section repeals Section 201(k) of the Federal Water Pollution Control Act. Section 201(k) provides that no grant made after November 15, 1981, for construction of a publicly owned treatment works shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow equivalent to 50,000 gallons per day of sanitary waste. The repeal of Section 201(k) was included in H.R. 2957 which passed the House on May 28, 1981.

This industrial cost exclusion (ICE) has its origin in Congress' attempts to deal with an earlier provision known as "Industrial Cost Recovery" (ICR). The Federal Water Pollution Control Act as amended in 1972 authorized the Environmental Protection Agency to make grants to municipalities for 75 percent of the eligible costs of construction of publicly owned treatment works (POTW's). It also provided that industries which use waste treatment works receiving construction grant assistance under the Act must pay to the grantee that portion of the grant allocable to providing treatment capacity for their wastes. At least 50 percent of this industrial cost recovery was to be returned by the grantee to the United States Treasury as miscellaneous receipts. The rest was to be retained by the grantee for the costs of administering the requirement and for future expansion and reconstruction of the treatment works.

An EPA progressed with the implementation of industrial cost recovery, there were increasing complaints from municipalities and others that the mechanism required to assess and collect ICR charges was so burdensome that administrative costs exceeded the monies recovered and retained. Industries and municipalities reported that the additional cost attributable to ICR was, in many cases, driving industries away from regional publicly owned waste treatment plants. Other industries, particularly those located in highly developed areas, lacked the option to leave. Industrial cost recovery acted as a penalty for many of these industries because they had no choice but to continue to discharge into the municipal system at a higher cost, or close down.

As a result, the 1977 Amendments (Public Law 95–217) to the Federal Water Pollution Control Act placed an 18-month moratorium on the ICR requirement and called for EPA to submit to Congress a study of the efficiency of and the need for ICR. Because of delay in completion of the EPA study and legislative proposals, the moratorium was extended an additional year, to June 30, 1980, by Public Law 96–148.

After considering EPA's final report and holding extensive hearings on ICR, the Committee in the 96th Congress concluded that industrial cost recovery did not serve the original intent of Congress in enacting it and was discriminatory, unworkable, and not cost-effective in a large number of instances (House Report No. 96–983). The Committee reported H.R. 6667 which amended the Federal Water Pollution Control Act by deleting the industrial cost recovery provisions.

The Senate Committee on Environment and Public Works reported a bill, S. 2725, which also eliminated the industrial cost recovery requirements of the Act.

In addition, S. 2725 provided that, beginning October 1, 1980, no grant was to be used to treat the wastewater flow of any industrial user greater than 50,000 gallons per day sanitary waste equivalent. The provision did not apply to grant assistance for Step 1 facilities planning or to Step 2 preparation of construction drawings and specifications. It also did not apply to Step 3 grants for physical construction for any plant which had received its Step 2 grant on or before May 15, 1980.

In October 1980, the Congress passed a compromise between the House bill, which repealed ICR without changing grant eligiblity for industrial capacity, and the Senate bill, which repealed ICR but added ICE. Public Law 96–483 retained ICE, but delayed the effective date of exclusion to November 15, 1981. It also required the Environmental Protection Agency to prepare and submit to Congress by March 15, 1981, a study on the effects of the ICE provision.

EPA transmitted its report to Congress on March 13, 1981. The study concluded that the industrial cost exclusion would cause a financial hardship for a large number of communities and that savings to the Federal Treasury could very well be exceeded by the costs of the delays caused by requiring cities to revise their plans and negotiate new agreements with their industries.

The effects of the industrial cost exclusion provision, as shown in the report of the Environmental Protection Agency, are set forth in detail in House Report No. 97–90, which accompanied the bill H.R. 2957.

On the basis of the EPA study, the testimony of all those concerned, and our own examination of the issue, the Committee concludes that the industrial cost exclusion should be repealed. All available evidence indicates that it is arbitrary, inequitable, and not likely to produce significant cost savings to the Federal government.

## SECTION 4

This section directs the Administrator to encourage and assist applicants for grant assistance to develop and file with the Administrator capital financing plans which will, at a minimum, project the applicant's requirements for waste treatment for at least 10 years; project the nature, extent, timing and costs of necessary expansion and reconstruction of treatment works within the applicant's jurisdiction; and set forth the manner in which the applicant intends to finance such expansion and reconstruction.

Section 201(d) of existing law established as a goal of the grants program that "the Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities . . .". The Committee has been concerned for some time that grant-assisted municipalities are not establishing financial plans adequate to insure that projects will be able to operate successfully and without further Federal financial assistance. If this is the case, then achievement of the goals of the Act may recede into the indefinite future, for wastewater treatment will continually fall behind treatment needs as those systems fail to generate the revenues required to ensure their continued operation, expansion, and reconstruction.

Section 4 builds on the concept contained in Section 201(d) of existing law. It will provide necessary encouragement and assistance to applicants to address and anticipate future needs and to identify ways of meeting them. The development of these plans will also provide valuable information on the needs of various communities in relation to their financial resources and abilities to either meet these needs or adjust them to meet applicable budgetary circumstances.

Current Federal budgetary constraints are causing a reduction in the level of funding assistance that can be expected from the Federal Government for the construction grants program. Thus, it is important that planning be initiated to deal with the question of how the next generation of municipal sewage treatment plants will be built and financed.

Generally speaking, there has been an inadequate attempt by grantees to forecast long-term capital needs and to identify potential financing to cover those needs. Most grantee revenue systems now in place are designed to repay past obligations (debt service) and to provide for actual annual operation and maintenance expense. Few grantee revenue systems are designed to accommodate the major system improvements and rehabilitation that will be required in the future. The absence of this long-term planning constitutes a serious obstacle to achievement of economic self-sufficiency for local sewage treatment programs.

Section 4 will provide a means for the Administrator to encourage this type of long-term planning. The Committee notes that the provision does not authorize the Administrator to require such financial planning as a prerequisite to approval of a grant; rather, it simply authorizes the encouragement of such planning and the providing of appropriate technical assistance.

### SECTION 5

Subsection (a) of Section 5 provides that the Fiscal Year 1982 grant funds shall be allotted by the Administrator not later than the tenth day after the date of enactment of the Act.

Subsection (b) extends the existing formula for allotment of construction grant funds among the States through Fiscal Year 1982.

The Administration proposed that the allotment formula be changed to reflect only the needs for secondary and more advanced treatment and new interceptors to serve 1980 population levels as set forth in the 1980 Needs Survey. The Committee feels that before a new allotment formula is adopted, a new needs survey should be prepared reflecting the changes made in the Committee's bill. This is provided for in Section 20. In the meantime, the best course is to continue with the present allotment formula which was worked out after considerable discussions in 1977 and which is familiar and understandable. In 1982 the Congress will then be in a position to consider the adoption of a new allotment formula based on new and more valid information.

Subsection (c) extends through Fiscal Year 1982 the provision that no State shall receive less than one-half of one percentum of the total allotment, except that in the case of Guam, the Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one hundredths of one percentum in the aggregate shall be allotted to all four of these jurisdictions. The authorization for the appropriation of not to exceed $75 million per year for this provision is continued through Fiscal Year 1982.

### SECTION 6

This section provides that for Fiscal Year 1982 not to exceed 4 percent of the total amount authorized for construction grants ($2.4 billion) is authorized to be reserved for making grants to States for the costs of administering provisions of the Act relating to the grants program which have been delegated to the States. The 1977 Amendments provided for a reservation of 2 percent of the total authorization ($5 billion) which came out to $100 million a year for administration. The percentage for Fiscal Year 1982 is changed to 4 percent to reflect the reduced funding level of $2.4 billion for that year and to assure that close to $100 million per year will still be available in order to allow continued management of the program by participating States at a stable level. This provision continues the policy of encouraging the States to exercise their primary responsibilities and rights in water pollution control. The Committee expects the delegation of program management to the States begun under the 1977 Amendments to continue and expand. By supporting development of viable management capability at the State level, the provision will enable the States to better meet their appropriate responsibilities in achieving the goals of the Act.

The Administration's legislative proposal would require that the amount set aside for a State be a percentage of an amount equal to the sum of the unexpected obligations and the unobligated allotment available to a State at the beginning of the fiscal year in which the grant is to be made, or $400,000, whichever amount is greater. The Committee did not adopt this recommendation because it would result in a fluctuating level of funding for the administration of functions delegated to the States. The amount of money would go up and down depending on the amount of unexpended obligations and the unobligated allotment in each State. The States' responsibilities, however, under a partially or wholly delegated grant program do not vary in proportion to how much unobligated or unspent money is available at the beginning of a fiscal year. Neither do those responsibilities lessen when the amount of Federal funding assistance for the program is reduced. In fact, exactly the opposite may well occur. To the extent that Federal financial support for the construction grants program is lowered, States and municipalities will be expected to assume increased responsibility for program financing and administration, and their need for strong management capabilities correspondingly will be increased. Furthermore, a fundamental goal of the delegation process is to eliminate duplicative review and shorten the lengthy process by encouraging better program management. Adequate State management capabilities and funding levels are key to this goal. The Committee believes that the Administration's proposal could discourage good management practices. States could be tempted to retain high unexpended obligations and unobligated allotments at the beginning of a fiscal year in order to obtain higher funding. This would be contrary to proper management of the program.

It is important that a consistent level of funding be provided to ensure stability in State programs. This will better enable the States to obtain and keep qualified personnel and to maintain a stable organization capable of an orderly scheduling and performance of activities for which the States are responsible. The Committee has, therefore, retained the concept of basing the level of funding for State delegated activities on the authorized amount provided for the construction grants program.

### SECTION 7

This section extends the set-aside for increasing the Federal grant share from 75 to 85 percent for innovative and alternative technology through Fiscal Year 1982. It also amends the existing 3 percent mandatory set-aside to provide that the set-aside shall be not less than

3 percent nor more than 5 percent. The amount of any increase between 3 and 5 percent will be at the determination of the Governor of the State.

The Administration recommended that the set-aside be made discretionary on the part of the Governor. The Committee feels that retention of a mandatory set-aside is advisable to continue the encouragement provided for innovative and alternative technology. While the 3 percent is retained as a minimum amount, the set-aside may be increased to a level between 3 and 5 percent at the determination of a Governor of a State. This provides more flexibility to the States in determining to what degree innovative and alternative technology should be encouraged and utilized within a State.

Subsection (b) of Section 7 extends the authority for the increased Federal share for innovative and alternative technology through Fiscal Year 1982. It also amends the innovative and alternative technology provision to state that any component of a treatment works is eligible for the increased share if that component is innovative or alternative. The law presently requires that a significant portion of the treatment works utilize innovative or alternative technology if that portion is to be eligible for the increased grant. The purpose of the Committee's provision is to expand this concept so that a lesser portion of a treatment works can be eligible for increased innovative and alternative funding. It is not intended to overturn the existing practice of providing the increased funding for an integrated unit, such as a unit process, when its innovative nature results from the utilization of new features such as an energy and cost saving rotor in an activated sludge tank. In this case the improved unit—the tank together with the new rotor—could be funded at the higher share.

Subsection (c) of Section 7 removes the existing prohibition in the law against providing the higher Federal grant share for innovative and alternative technology relating to collector and interceptor sewers, major sewer rehabilitation, and storm or sanitary sewers. This prohibition discourages the development of innovative and alternative technology in these areas and is, therefore, considered inappropriate.

As one example, the Committee received testimony and other information indicating that innovative processes for the correction of infiltration and inflow problems are being developed which show a potential for significantly decreasing the costs and increasing the effectiveness of this type of work. The prohibition against a higher grant share for this type of innovative technology is counterproductive. The Committee feels that it is important to encourage innovative and alternative technology for all aspects of an overall treatment system. This will assist in achieving the maximum degree of improvement in water quality at a lower cost. The Committee wishes to point out that subsection (c) of Section 7 does not add any new categories of eligibility. It only provides that, where a particular treatment works is otherwise grant eligible, an increased grant share can be provided for innovative and alternative technology. It does not alter any other provisions of the Act which may limit grant eligibility for various types of treatment works.

### SECTION 8

This section amends Section 204(a)(6) of the Federal Water Pollution Control Act. Section 204(a)(6) requires that the Administrator, before approving a grant for a treatment works, shall determine that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary or discriminatory requirements other than those based on performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal".

Section 8 changes the "two brand names or equal" requirement by providing that when, in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirement, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. In doing so the grantee need not establish the existence of any source other than the brand or source so named.

Section 8 incorporates the principle contained in OMB Circular A–102 which provides that procurement solicitations or specifications should incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of a named brand which must be met by offerors must be clearly stated. The change from "two brand names or equal" to "one brand name or equal" is designed to remove difficulties encountered where it is not practical to name more than one brand or it is not reasonably ascertainable whether there is more than one brand. The requirement for the words "or equal" together with the requirement in OMB Circular A–102 that the specific features of the name brand which must be met shall be clearly stated preserve the opportunity to offerors to demonstrate that their product is in fact equal to the named item. It is not designed to allow proprietary specifications when the characteristics of the named product are not related to demonstrated requirements of the grantee.

### SECTION 9

This section amends Section 205 of the Federal Water Pollution Control Act by adding a provision which creates a set-aside of one percent of each State's allotted grant funds or $100,000, whichever amount is greater, to be used to make grants to the States to carry out water quality management planning. Among other things, this planning is to include the identification of the most cost-effective and locally acceptable measures for treatment works and non-point sources to meet and maintain water quality standards; the development of an implementation plan to obtain State and local financial and regulatory commitments to implement such measures; and the determination of the nature, extent and causes of water quality problems in various areas of the state and interstate region. In carrying out planning under this provision, each State shall develop jointly with local, regional and interstate entities a plan for carrying out its water quality management planning program. The State must also give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of the provision.

Experience with a broad variety of Federal programs teaches that the need for planning increases inversely with the amount of funding available. This is particularly true for the construction grants program which this year will sustain massive cuts in the authorization level. Section 9 maintains the ongoing wastewater management planning process by providing 1 percent of the construction grants funds for State and areawide management efforts. In writing this section, the Committee underscores its intent that the planning process be funded at an adequate level. Further, the Committee intends that States develop and continue the water quality management process, giving funding priority to existing designated areawide waste treatment management planning organizations, and to similar, presently undesignated public comprehensive planning organizations, adequate to maintain or create areawide management capacity.

## SECTION 10

This section directs the Administrator to allot to the State of New York from Fiscal Year 1982 funds an amount necessary to pay the cost of conveying sewage from the Convention Center of the City of New York to the Newtown Sewage Treatment Plant in Brooklyn. This provision was included in H.R. 2957 which passed the House May 28, 1981.

## SECTION 11

This section provides an authorization of $2.4 billion for the construction grants program for Fiscal Year 1982.

## SECTION 12

This section amends the definition of the term "construction" in Section 212 of the Act to include as grant eligible under Title II the field testing of innovative or alternative wastewater treatment processes and techniques meeting guidelines promulgated under Section 304(d)(3). The purpose of this provision is to provide further encouragement for the development of such processes and techniques and to better ensure that they will perform as planned.

Notwithstanding the present financial incentives in the Act, failure of an experiment process still carries the risk of redesign, delay and cost overruns. Much of the risk lies in the fact that promising innovations have had the benefit of only laboratory simulation or small-scale field testing. Thus, there is a need for an additional element of verification of hardware or processes in terms of their performance capability, which in turn would provide the needed increment of confidence which larger-scale field testing can provide under the broadened definition of construction.

It is the intent of this provision that field testing of processes, techniques and components be grant eligible under Step 1, the facility planning phase, and Step 2, the design phase.

The Committee recognizes that many communities will lack the capability to perform themselves the field testing contemplated by this provision. In such instances the Committee intends that such applicants may contract with large municipal or metropolitan wastewater treatment agencies, or other entities, which have qualified operating staffs, monitoring and analytical capabilities, and laboratories and other facilities, to carry out this work on a reimbursable basis.

### SECTION 13

This section expresses the policy of Congress that a project for waste treatment and management undertaken with financial assistance under the Federal Water Pollution Control Act shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of treatment works to meet the requirements of the Act. It also provides that water efficiency measures and devices (conservation measures) are to be considered along with all other alternatives in determining what overall system is most cost-effective. In many cases, it may be more cost-effective to use such measures than to build additional treatment capacity. Just as with the correction of infiltration and inflow problems, conservation measures can reduce the flow of wastewater into municipal treatment plants and reduce the amount of treatment capacity needed.

It provides that the Administrator, before approving any Step 3 construction grant for treatment works, must determine that the overall project of which the treatment works are a part is the most cost effective combination of treatment works to meet the requirements of the Act. This section applies to new projects which have not yet received any Federal assistance and to projects which are in the Step 1 planning phase. It does not apply in cases where a Step 2 engineering design or a Step 3 construction grant has been approved. Step 2 and Step 3 projects are not appropriate for mandatory inclusion in this provision as it could require a redesign or possibly reconstruction, which would most likely add more costs through delays than would be saved bv additional cost-effectiveness analyses. There is, however, no prohibition against applicants reexamining their plans if they believe that in the long run money could be saved through further cost analysis.

It is extremely important that an overall project for treatment of municipal waste as described in Step 1 facility planning be regarded as a system for the collection, treatment and ultimate disposal of the wastes involved. Such an overall project or system includes a combination of treatment works as defined in Section 212(2)(A) and (B). Treatment works include devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement Section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.

Section 13 will ensure that the combination of treatment works selected for the overall treatment system will be the most economical and cost effective over the life of the project, taking into account construction, operation, maintenance and replacement costs. Other factors, including nonmonetary or nonquantifiable factors such as primary and secondary environmental effects, implementation capability, operability, performance reliability and flexibility, may also be included. The provision is designed to ensure that the highest degree of pollution control is achieved with the limited financial resources available. It will require the use of recognized engineering and economic estimating techniques, such as value engineering, in order to make sure that the various treatment works chosen are in fact the most economical ones attainable which will deliver the required performance.

### SECTION 14

This section is designed to expedite the consideration of grant applications and to eliminate duplication of effort by EPA and the States. It provides that where a State has been delegated sufficient authority to administer the construction grants program under Title II, the Governor may certify to the Administrator that a grant application meets applicable requirements of State and Federal law. In such a case, the Administrator must appprove or disapprove the grant application within 30 days. If it is disapproved, the reasons for disapproval must be set forth in writing. If no action at all is taken within 30 days, the grant application is deemed to be approved. This provision should also have the effect of encouraging States to seek increased delegation of administration of Title II of the Act in order to be eligible for the expedited grant approval process.

### SECTION 15

This section states that it is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under the Water Pollution Control Act shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management consistent with the public health and water quality goals and requirements of the Act. With the diminishing financial resources expected to be available for implementation of the Act, it is imperative that the projects to be built are those which are most needed to meet the goals of the Act with regard to achievement of improved water quality. Under Section 15, this decision is left with the State in accordance with the philosophy expressed in H.R. 4503 to give more discretion in this program to the States which have firsthand knowledge of local water pollution problems.

### SECTION 16

This section amends Section 301(h) of the Federal Water Pollution Control Act, which allows modifications of secondary treatment requirements in the case of certain coastal communities discharging treated wastewater through ocean outfalls into marine waters—provided environmental safeguards enumerated in the Act are complied with—so as to allow additional communities to avail themselves of the ocean discharge option as an alternative to full secondary treatment.

The section authorizes modifications of best practicable waste treatment technology requirements for ocean dischargers able to meet the same stringent environmental safeguards applicable to modifications of secondary treatment requirements. It deletes from existing law a restriction of eligibility to communities which had ocean discharges on the date of enactment of the 1977 Act, and a requirement, in Section 301(j)(1), that applications must be submitted within 270 days of the date of enactment of the 1977 Act. Section 16 also removes as redundant a requirment in Section 301(h)(8) that construction grant funds available to a community receiving a waiver be used to provide secondary treatment and best practicable waste treatment technology or to carry out the requirements of Section 301(h). Paragraph 8 is applicable only where grant funds are available, and when this is the case the requirements of Title II apply in any event. Finally, it clarifies original Congressional intent that eligible applicants include communities which have achieved secondary treatment capability.

Section 301(h) was added in 1977 in recognition of the fact that, while high degrees of treatment remain necessary for discharges into rivers, lakes and streams, some exception could be made for discharges into certain ocean waters. Natural factors such as currents, tides, waves and depth can in some cases combine to create circulation or flushing action which rapidly disperses wastewater and its components. Therefore, the Act was amended to allow existing ocean dischargers to seek, with the concurrence of the State, a variance from full secondary treatment contingent upon existence of water quality standards applicable to the pollutants in question; protection of public water supplies and a balanced, indigenous population of shellfish, fish, and wildlife, and recreational activities in and on the water; a system to monitor the actual impact of resulting discharges on aquatic life; assurance that modified cleanup requirements would not result in imposition of additional controls on other sources; enforcement of all applicable pretreatment requirements again industrial sources contributing wastes to public treatment works; establishment of a program to eliminate the entrance of toxics from nonindustrial sources into the treatment works; and assurance that the applicant will not substantially increase its discharge of pollutants. And, as noted above, applicants were required to submit their applications within 270 days of the date of enactment, December 27, 1977.

EPA received 227 preliminary applications. The Agency took action with respect to approximately 50 percent of those by exempting Native Alaskan villages and small communities in the Trust Territories, Puerto Rico and the Virgin Islands from the need to seek variances, reasoning that they have more immediate public health needs. Of the remainder, however, only 70 final applications were received. By the time of the Committee markup of H.R. 4503, EPA had acted on only eight applications; five were approved, a sixth approved in part, and two denied. The other major applications will be acted on in groups according to a timetable extending into late 1982, with the remainder deferred still longer.

Since 1977, several factors have prompted the Committee to reexamine the issue of whether existing Section 301(h) might be unnecessarily restrictive. Engineering advances have been made in recent years which have led to improvements in outfall design achieving rapid dilution, in the ability to predict the dispersal patterns of outfall discharges, and in monitoring capability to analyze environmental effects. In addition, there have been continuing increases in capital costs to achieve full secondary treatment, reduction in Federal funding levels, and rising operating costs. In view of these factors, and in order to achieve needed savings in the cost of treatment of municipal wastes, the Committee considers it desirable to make the option of ocean discharges available where it can be shown that unacceptable adverse environmental effects will not result. EPA has estimated a total saving of $2 billion if the largest 30 of the total 70 applications are approved and less than secondary treatment is required. The State of California has estimated that the granting of all 12 variance requests submitted in that State alone would save $997 million.

With respect to communities which have achieved secondary treatment, the legislative history of 1977 Act clearly demonstrates that such communities were to be eligible to apply for and receive variances under Section 301(h). EPA's regulations denying eligibility to such communities were successfully challenged in one U.S. Court of Appeals. Section 16 of the bill affirms the original Congressional intent with regard to this matter. This will remove any doubt as to the eligibility of communities such as Avalon, California, which, as noted by GAO, "appears to be ideally suited for a waiver and could substantially benefit from the resulting reduced O&M expenses."

While GAO has estimated that approximately 800 communities located within a half-mile of their coastal waters might in theory be considered applicants, the Committee anticipates no such proliferation of ocean discharges from the expansion of eligibility in Section 16. Testimony has indicated that small systems in the 1 to 10 million gallons-per-day range might well find secondary treatment cheaper and more cost effective than outfall construction, because treatment capacity costs rise roughly in proportion to increases in wastewater load. Potential revisions in secondary treatment requirements, now under consideration by EPA, could reduce costs by an aggregate $1.2 billion or more, further diminishing the incentive of some communities to seek ocean waivers as an alternative to full secondary. Moreover, like all other construction financed under Title II, outfall and related projects remain subject to the requirements that innovative and alternative technology options, including the recycling and reclamation of treated wastewater, be considered. Also limiting the number of successful applicants—and the environmental impact of their ocean discharges—is the fact that the substantive environmental requirements of Section 301(h) remain intact.

It should be noted that the extent of treatment required of successful applicants will likewise have a limiting effect. The choice confronting the coastal community and both environmental and economic terms is not between primary and secondary treatment, but between the level of treatment required by water quality standards, plus ocean outfall construction, versus full secondary treatment. For example, in California, water quality standards are embodied in the State Ocean Plan, which will require capital expenditure of roughly $1.2 billion for improved treatment. This can take the form of increasing the proportion of a treatment works' discharge subjected to secondary treatment, enhanced settlement of solids in wastewater known as "advanced primary," or a combination of both.

On the basis of the foregoing, the Committee concludes that existing Section 301(h) is unnecessarily restrictive. Failure to broaden eligibility as provided in Section 16 of H.R. 4503 risks requiring treatment for treatment's sake, involving the expenditure of funds which could be better used to achieve additional water quality benefits elsewhere. This provision does not grant variances. It simply allows variances to be sought with the burden on the applicant to make its case on environmental grounds.

### SECTION 17

This section deals with reserve capacity. Under existing law, adequate reserve capacity, generally at least 20 years, is required to be included in publicly owned treatment works and this reserve capacity is eligible for grant assistance. The Administration has recommended the elimination of grant assistance for all reserve capacity. Its proposal would limit Federal assistance to treatment capacity required to meet 1980 population levels.

This section would retain existing grant assistance for reserve capacity in those projects which are presently receiving Step 2 design or Step 3 construction grant assistance. For projects which have not yet received any grant assistance, or are in Step 1 planning, it would limit such assistance to a reserve capacity representing 10 years of projected growth. The 10 years would be measured from the date of the first application for grant assistance.

The term "project" as used in this section encompasses the overall project as set forth in a Step 1 facility plan. Hence, any project which had received a segmented Step 2 grant would not have its fundable reserve capacity limited to ten years, but instead would continue to be funded under existing law. Projects which have been funded with State monies in lieu of Federal grants would be treated the same as projects receiving Federal grant assistance. The provisions in the Act requiring inclusion of adequate reserve capacity remain unchanged.

### SECTION 18

This section deals with categories of treatment works which are eligible for grant assistance. Present law provides assistance for treatment plants, interceptor and collector sewers, correction of infiltration/inflow problems, rehabilitation of sewers, and correction of combined sewer overflow problems. The Administration's proposal would limit grant assistance to treatment plants and interceptor sewers.

This section retains Federal grant assistance for presently eligible categories for all projects currently receiving assistance under the Act. For new projects which have not yet received any Federal assistance, up to 30 percent of a State's yearly allotment under the Act, as determined by the Governor, could be used for categories such as correction of combined sewer overflows, sewer rehabilitation and construction of qualifying collector systems. This provision is designed to continue the States' discretion and flexibility in deciding how their money should be spent to meet their particular problems. For all projects, correction of infiltration/inflow problems would remain grant eligible where it represents a cost-effective alternative. As in Section 17, the term project encompasses the overall project described in the Step 1 facility plan, and State-funded Step 1 and 2 projects are treated the same as those which are Federally funded. The categories which remain eligible for Federal assistance within the 30-percent limitation are only those categories which are eligible under the provisions of the Federal Water Pollution Control Act as it exists prior to the date of enactment of H.R. 4503. No new categories of eligibility are added.

### SECTION 19

This section states that it is the sense of Congress that judicial notice be taken of the amendments to the Federal Water Pollution Control Act and the other provisions contained in H.R. 4503, and that the parties to Federal consent decrees establishing a schedule for construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions. This is designed to encourage consideration of the impact of reduced funding levels on the scheduled completion dates of projects under a consent decree.

### SECTION 20

This section directs the Administrator of EPA to submit to Congress not later than June 30, 1982, a new report of the costs of meeting the requirements of the Federal Water Pollution Control Act as amended by H.R. 4503 for discharges of municipal waste. This is the so-called "needs" survey which EPA is required to submit to Congress every two years. This section will provide Congress with a revised estimate of needs reflecting the changes in the program made by the bill. In preparing this report, the Administrator is to give emphasis to the effects of Section 18 of the bill in addressing water quality needs adequately and appropriately.

### SECTION 21

This section provides that the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allotted to the State of Michigan in an amount equal to the amount such works would be eligible for under the Act if the project had been constructed with Federal grant assistance. The amount to be paid would be limited to the appropriate Federal share of the actual construction cost at the time it was originally constructed. Bath Township was compelled to proceed with this project by court order with its own funds at a time when Federal funds were being impounded. Had it not been for these most unusual circumstances, the project would have been constructed with the usual 75-percent Federal share. This section is designed to correct this inequity.

### OTHER COMMENTS

The implementing agreements for the Great Lakes Water Quality Treaty with Canada are presently under consideration for approval. The Committee notes that these agreements could result in higher treatment costs for municipalities. Since these costs would be incurred to meet treaty requirements which are more a Federal than a local responsibility, the Committee intends to monitor this matter and to look into it in the future as warranted.

The Committee is also aware that the Environmental Protection Agency is presently reconsidering its regulatory definition of secondary treatment. This offers a potential for addressing the water quality problems of both urban and rural communities in a manner consistent with the cost-effective requirements set forth in Section 13 of the bill. The Committee intends that this effort be undertaken with a view toward achieving the water quality goals of the Act in the most cost-effective manner.

## COMPLIANCE WITH CLAUSE 2(l) OF RULE XI OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the House of Representatives, the Subcommittee on Investigations and Oversight held hearings on subjects including the construction grants program on June 18, 19, 24, 25, and 26, 1980. The conclusions of the Subcommittee based on those hearings are contained in Committee Print 96–71, "Implementation of the Federal Water Pollution Control Act." Additional hearings concerning the construction grants program were held on March 19, 1981; May 18, 1981; July 14, 15, 16, 21, 22, and 23, 1981; and September 8, 1981. In addition, the Subcommittee on Water Resources held hearings on the subject matter of this legislation, which hearings resulted in the reported bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, H.R. 4503, as reported, does not provide new budget authority or increase tax expenditures. Accordingly, a statement pursuant to Section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received a report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act. The report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., October 9, 1981.*

Hon. JAMES J. HOWARD,
*Chairman, Committee on Public Works and Transportation, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for H.R. 4503, the Federal Water Pollution Control Act Amendments of 1981.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

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## CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 4503
2. Bill title: Federal Water Pollution Control Act Amendments of 1981
3. Bill status: As ordered reported by the House Committee on Public Works and Transportation, September 30, 1981.
4. Bill purpose: This bill authorizes the appropriation of $2.4 billion for the Environmental Protection Agency's (EPA) municipal wastewater treatment construction grants program for fiscal year 1982. (The initial fiscal year 1981 appropriation was $3.3 billion, of which $0.8 billion was later rescinded.) The 1982 funds are to be allotted among the states no later than ten days after passage of this act in accord with the existing formula, the use of which the bill extends through fiscal year 1982.

The Administrator of the EPA is directed to encourage and assist grant applicants to develop capital financing plans which detail anticipated waste treatment requirements for at least ten years and intended financing methods to accommodate such needs. Under current law, sewage treatment facilities eligible for grant assistance must allow for needed reserve capacity—generally adequate for the next 20 years. This bill would limit grant assistance for reserve capacity to the anticipated needs for the ten years following the date of first application for assistance.

The bill repeals the prohibition against the use of federal construction grant funds to provide capacity in municipal treatment plants for treating, storing, or conveying a flow of more than 50 thousand gallons per day of any industrial user's waste. That restriction was added to the Federal Water Pollution Control Act (FWPCA) in October 1980, and was to become effective November 15, 1981.

The current provision for 85 percent federal funding of projects that use innovative or alternative processes and techniques is extended through fiscal year 1982. The existing set-aside of 3 percent of funds allotted to each state for such alternative and innovative programs is amended to provide for a minimum of 3 percent and a maximum of 5 percent to be set aside for such purposes with the proportion to be determined by the Governor of each state. In addition, the FWPCA is amended so that any innovative or alternative component of a treatment project is specifically eligible for the increased federal financing share; current law requires that a significant portion of a project utilize innovative or alternative technology in order to qualify for increased federal funding.

The bill directs the Administrator of EPA to allot to the State of New York the necessary funds, from 1982 appropriations, to convey sewage from the New York Convention Center to the Newtown Sewer Treatment Plant in Brooklyn, New York.

Finally, the bill directs the Administrator of EPA to submit a report to the Congress, no later than June 30, 1982, detailing the costs of meeting the requirements of FWPCA, and taking into consideration the provisions of the amendments made by the Federal Water Pollution Control Act Amendments of 1981. Under current law the Administrator is required to submit a similar report (known as a needs survey) by February 10 of odd-numbered years.

5. Cost estimate:

| | *Millions* |
|---|---|
| Authorization level: | |
| Fiscal year: | |
| 1982 | $2,400 |
| 1983 | ----- |
| 1984 | ----- |
| 1985 | ----- |
| 1986 | ----- |
| Estimated outlays: | |
| Fiscal year: | |
| 1982 | 20 |
| 1983 | 300 |
| 1984 | 660 |
| 1985 | 620 |
| 1986 | 400 |

Including outlays from previous years' appropriations, total 1982 construction grant outlays are estimated to be $3.9 billion, assuming the authorized funding level.

The estimated cost to EPA of compiling the needs survey report required by this act to be submitted by June 30, 1982, is approximately $1 million.

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization level is that stated in the bill. Public Law 97-51, which makes continuing appropriations for fiscal year 1982, provided $2.4 billion for the construction grants program, contingent upon enactment of reform legislation and a subsequent 1982 budget request. For purposes of this cost estimate, it was assumed that H.R. 4503 would be enacted and the entire $2.4 billion authorization would be appropriated by December 1, 1981, under the conditions prescribed in the continuing resolution or in some other form.

The estimated outlays of the construction grant funds are based on historical spending patterns for the program, for which projects often taken seven or more years to complete. Various provisions in the bill might result in faster or slower outlay rates but the net effect of these provisions cannot be determined with accuracy.

Several provisions in the bill, such as the repeal of industrial cost exclusion and the limit on federal grant assistance for reserve capacity, might significantly affect the demand for construction grant funds in future years. As a result, appropriated grant funds under this bill will be spent on projects somewhat different in nature from those projects which would have received grants in the absence of these amendments.

The cost of conveying sewage from the New York City Convention Center to the Newtown Sewer Treatment Plant in Brooklyn, New York is estimated to be $1.2 million spent over two years. This money is to come from the $2.4 billion 1982 appropriations.

7. Estimate comparison: None.

8. Previous CBO estimate: On October 7, 1981, the Congressional Budget Office transmitted a cost estimate for H.R. 4503 that incorrectly stated that the current authorization for the EPA construction grant program is $5 billion. That authorization was repealed by the Reconciliation Act of 1981 (Public Law 97–35). This estimate supersedes the previous CBO estimate.

A cost estimate of the Senate version of the Clean Water Act Amendments of 1981 was prepared for the Senate Committee on Environment and Public Works on October 7, 1981.

The House and Senate versions of the Clean Water Act Amendments of 1981 differ in many regards. The Senate bill authorizes $2.4 billion for the wastewater treatment construction grant program in each of fiscal years 1982 through 1985, and an additional $200 million annually in fiscal years 1983 and beyond for the correction of combined sewer overflows into marine bays and sanctuaries. H.R. 4503 authorizes the appropriation of $2.4 billion for the construction grant program for fiscal year 1982 only and does not include an additional authorization for combined sewer overflow treatment grants. The House bill authorizes the continued use of the existing allotment formula; the Senate bill sets forth a new formula to be used in fiscal year 1982 through 1984.

The bills also have different provisions with regard to the industrial cost exclusion provision of the Clean Water Act, the size of the set-aside from a state's allotment for increasing the federal share of innovative and alternative projects, and the limitation on federal funding of reserve capacity.

The Senate bill defers reimbursement for steps 1 and 2 grants until after approval of a step 3 grant application beginning October 1, 1981. The Senate bill also extends the municipal secondary treatment compliance deadline from July 1, 1983 to July 1, 1988. The House bill does not contain corresponding provisions. However, it directs the Administrator of EPA to allot sufficient funds, from 1982 appropriations, to the State of New York to convey sewage from the New York City Convention Center to the Newtown Sewer Treatment Plant in Brooklyn, New York.

9. Estimate prepared by: Anne E. Hoffman.

10. Estimate approved by:

C. G. NUCKOLS,
(*For James L. Blum,*
*Assistant Director for Budget Analysis*).

(4) With reference to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the following information is provided: The effect of carrying out H.R. 4503, as reported, should be negligible with respect to prices and costs. The bill continues an ongoing program at a level considerably reduced from recent years. Authorizations for the program were $5 billion for each of 1980 and 1981; appropriations were $3.4 and $3.3 billion for those years, respectively.

### COST OF LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 4503, as reported, in Fiscal Year 1982 and each of the following five years. The Committee considers the estimates of costs in the report of the Congressional Budget Office to be reasonable.

### COMMITTEE ACTION AND VOTE

The Committee in compliance with rule XI(2)(1)(2)(A) reports favorably the bill H.R. 4503, as amended. The Committee ordered the bill reported by voice vote.

# ADDITIONAL VIEWS OF REPRESENTATIVE BOB EDGAR ON H.R. 4503

In reporting H.R. 4503, the Water Pollution Control Act Amendments of 1981, the House Public Works and Transportation Committee gives the 97th Congress one of its first opportunities to consider a key environmental and water policy issue. As we move into an era of greater restraint on federal spending and shift more responsibilities to state and local governments, we face a great challenge in preserving the commitments to clean water that we have made over the past decade.

I believe that we are also moving into an era in which water policy generally will become a critical national issue. In H.R. 4503 we are dealing with infrastructure problems relating to water quality. In the coming years we will increasingly face problems in the area of water supply. In the Sunbelt projects will be needed to supply water for growth in dry regions. In the Northeast and Midwest neglected water supply infrastructure must be repaired and rebuilt. In this construction grants bill we have an early opportunity to deal with these types of problems using the limited means that will be available over the coming years.

Water problems may present the next great resource crisis for our nation. I believe we are going to have to reevaluate past policies in light of threatened water shortages and limited budgets. Policies which in the past fostered unlimited or ill-planned growth will have to be amended. The needs of older regions and localities will have to be addressed along with the needs of new cities and growing regions. Though we are not now dealing with the requirements and sanctions of the Clean Water Act, in the future we will have to provide the flexibility and reasonable guidance needed by the states under an austere construction grants program.

I have had two chief concerns during the committee's consideration of the 1981 construction grants bill—both of which have been addressed by amendments which the subcommittee and full committee have accepted. I appreciate the patience of my committee colleagues in listening to my concerns and accepting my suggestions. I want to take this opportunity to further explain my concerns for the committee report.

Basically, I am interested first in the flexibility of the program and next in the need to target the limited funds we are authorizing to address public health and water quality needs. The House Water Resource Subcommittee partially addressed the flexibility issue in the initial draft of H.R. 4503. Addressing the Administration's proposal for arbitrary elimination of certain eligible categories, the subcommittee retained eligibility for all funded projects in currently eligible categories, while providing up to 30 percent of a state's construction grants funds for such projects in the future.

It is my concern, however, that the 30 percent figure is also somewhat arbitrary. This provision again seems to leave open the possibility that the states wil be restricted from spending their allotments on the most cost-effective or necessary categories. For example, my committee colleague, Congressman Buddy Roemer, raised concerns about infiltration/inflow needs in Louisiana (later addressed in an amendment); I, myself, am concerned about the rehabilitation needs of the Northeastern and Midwestern states. Since no one could argue that a 30 percent set-aside would be adequate or appropriate for the needs of various states, the subcommittee agreed that the 30 percent figure should be studied by the EPA in the process of compiling a new needs survey mandated by H.R. 4503.

The Administration's approach to the eligible category issue, like its approach to the reserve capacity issue, does not really constitute a thoughtful reform, in my view. Both the Senate and House committees have moved in the direction of providing greater flexibility than the Administration proposes, especially for projects already funded and in the development phase. The House subcommittee's "cost-effectiveness" provision, Sec. 11 of the committee print of H.R. 4503, is a key provision in this regard.

Another critical issue which concerns me in this legislation is the need for targeting the limited funds we are proposing to make available under an austere 1981 construction grants program. The full committee adopted an amendment I offered which states the policy of Congress on public health and water quality benefits. I believe such a statement to be absolutely necessary in the face of criticism of the construction grants program, the Administration's request for program reform, and the $2.4 billion authorization level.

There had been some apprehension that a statement of this nature in H.R. 4503 would be inflexible for the states or would indicate a bias toward urban areas. This was not my intent, and I believe the purpose of the public health and water quality provision was clearly established in discussion at the committee mark-up. By adding this section to the bill, we simply tell the states what Congress wants from the construction grants program. Common sense dictates that limited funds should go to clean up dirty water, and we should take this legislative opportunity to reiterate this point.

I think that we can trust the states to clean up the water if we clearly tell them what the construction grants program is all about. Reviewing the history of the Clean Water Act, I have found that Congress has too often sent conflicting signals in the past. This is a critical period for the construction grants program, and we must express clearly to the states and the public what the construction grants program is all about.

My amendment clearly addresses the Administration's demand for reform of the program. It parallels provisions in a committee-approved Senate bill addressing public health and water quality benefits, though the Senate bill is unwarrantedly intrusive in directing the State's procedures for drawing up their project priority lists. Although I definitely do not share the Administration's desire to focus the construction grants program on urban water needs or on any arbitrary region or locality, I do believe that we must make a maximum effort to address existing public health and water quality needs wherever they eixst. I think the House Public Works and Transportation Committee has acted responsibly on this bill and we ought to state our concerns about water quality to the Administration and to the Public.

As this legislation moves through the Congress, I believe that responsibility will ultimately rest with the Reagan Administration to approve funding for the construction grants program. Despite President Reagan's March pledge to budget $2.4 billion for a reformed program, many of us in Congress have been concerned about the possibility of reaching a concensus on this issue. Having been part of the process of examining the Administration's proposals on the program, I am familiar with the close but fair scrutiny we gave these proposals. Water Resources Subcommittee Chairman Bob Roe and other subcommittee members have pointed out the obvious difficulties with the Administration's program changes, but we have stuck by the President's proposed funding level of $2.4 billion. I hope that we can expect the same consideration and cooperation from the Administration when Congress offers this bill in final form to the President.

## ADDITIONAL VIEWS OF MR. OBERSTAR AND MR. EDGAR

We regret the Committee's decision to approve the language in Sec. 16(a) removing the current requirement that a marine outfall be in existence as of the date of enactment of the 1977 amendments in order to qualify for a waiver of secondary treatment requirements. We offer a cautionary thought: this provision may encourage open-ended discharges of wastes into the ocean on the part of communities which might not otherwise consider resorting to the ocean as the final resting ground for their wastes.

The May, 1981, General Accounting Office report, "Billions Could Be Saved Through Waivers for Coastal Wastewater Treatment Plants," while noting potential savings, also identifies 846 communities within half a mile of all U.S. coastlines, including 132 heavily industrialized municipalities—616 more than filed preliminary waiver applications—which may be encouraged into ocean discharge by relaxing the limitations on applying for a secondary waiver.

We submit that the cumulative impact of hundreds of new ocean discharges will be disastrous to sensitive nearshore waters.

We therefore urge the Environmental Protection Agency in following the intent of H.R. 4503, and in its legitimate efforts to avoid "treatment for treatment's sake," to assure that the conditions described in Sec. 301(h) (1) through (7) are vigilantly adhered to.

Of equally grave impact for the future, we believe, is the deletion of Sec. 301(h)(8), which currently requires that alternative waste management techniques, such as recycling, groundwater recharge, and on-land disposal, be fully evaluated during the waiver application process. At a time when adequate supplies of fresh water are dwindling, when cities are forced to draw water from farther and farther back in the mountains, when saltwater intrusion, yawning sinkholes, and newly discovered groundwater contamination are daily subjects of news reporting, it clearly seems as improvident to dispose of fresh water in the ocean as it is imprudent to dispose of its contaminants in that same receptacle.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## FEDERAL WATER POLLUTION CONTROL ACT

## TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

### PURPOSE

SEC. 201. (a) * * *

* * * * * * *

(g) (1) * * *

* * * * * * *

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account section 201(d) of this Act and taking into account and allowing to the extent practicable the [more efficient use of energy and resources] *most efficient use of energy and resources which will result in the lowest net cost of water and sewer service to the consumer.*

[(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.]

*(k) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—*

*(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;*

*(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and*

*(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.*

### FEDERAL SHARE

SEC. 202. (a) (1) * * *

(2) The amount of any grant made after September 30, 1978, and before October 1, [1981] *1982*, for any eligible treatment works or [significant portion] *any component* thereof utilizing innovative or alternative waste-water treatment processes and techniques referred to in section 201 (g) (5) shall be 85 per centum of the cost of construction thereof, unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

* * * * * * *

(4) For the purposes of this section, the term "eligible treatment works" means those treatment works in each State which meet the requirements of section 201(g) (5) of this Act and which can be fully funded from funds available for such purpose in such State in the fiscal years ending September 30, 1979, September 30, 1980, [and September 30, 1981. Such term does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.] *September 30, 1981, and September 30, 1982.*

* * * * * * *

### LIMITATIONS AND CONDITIONS

SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(g) (1) the Administrator shall determine—

(1) * * *

* * * * * * *

(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclu-

**sionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment [, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal"].** ***When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.***

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ALLOTMENT

SEC. 205. (a) * * *

* * * * * * *

(c) Sums authorized to be appropriated pursuant to section 207 for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act of 1977. *Sums authorized to be appropriated pursuant to section 207 for the fiscal year ending September 30, 1982, shall be allotted for such fiscal year by the Administrator not later than the tenth day which begins after the date of enactment of the Federal Water Pollution Control Act Amendments of 1981.* Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, [and September 30, 1981,] *September 30, 1981, and September 30, 1982;* shall be allotted in accordance with table 3 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives.

* * * * * * *

(e) For the fiscal years 1978, 1979, 1980, [and 1981] *1981, and 1982,* no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, [and 1981] *1981, and 1982.* If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

* * * * * * *

(g)(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1977, *except in the case of the fiscal year beginning October 1, 1981, in which case the percentage authorized to be reserved shall not exceed 4 per centum*, or $400,000 whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment. *Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.*

* * * * * * *

(i) Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, [and September 30, 1981,] *September 30, 1981, and September 30, 1982*, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 202(a)(2) of *this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 3 per centum nor more than 5 per centum of the funds allotted to such State for the fiscal year ending September 30, 1982, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.*

*(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1981, or $100,000, whichever amount is the greater.*

*(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to.*

*(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;*

*(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A); and*

*(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, reporting on these annually.*

*(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.*

*(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.*

*(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.*

* * * * * * *

### AUTHORIZATION

Sec. 207. There is authorized to be appropriated to carry out this title, other than sections 206(e), 208 and 209, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000, and, subject to such amounts as are provided in appropriation Acts for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, not to exceed $5,000,000,000; for the fiscal year ending September 30, 1981, not to exceed $2,548,837,000; and for the fiscal year ending September 30, 1982, [not to exceed $0, unless there is enacted legislation establishing an allotment formula for fiscal year 1982 construction grant funds and otherwise reforming the municipal sewage treatment construction grant program under this title, in which case the authorization for fiscal year 1982 shall be an amount not to exceed $2,400,000.] *not to exceed $2,400,000,000.*

* * * * * * *

### DEFINITIONS

Sec. 212. As used in this title—

(1) The term "construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, *field testing of innovative or alternative waste water*

*treatment processes and teechniques meeting guidelines promulgated under section 304(d)(3) of this Act*, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

* * * * * * *

### *COST EFFECTIVENESS*

*SEC. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) of which is used for ultimate disposal of residues resulting from such treatment; and water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.*

*(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.*

*(c) This section applies to projects for waste treatment and management for which no treatment works included in a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under the Federal Water Pollution Control Act before the date of enactment of this section.*

### *STATE CERTIFICATION OF PROJECTS*

*SEC. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Adiministrator that* *a grant application meets applicable requirements of Federal and State law for assistance under this title, the Administrator shall approve or disapprove such application within thirty days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within thirty days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.*

### *PUBLIC HEALTH AND WATER QUALITY BENEFITS*

*SEC. 220. It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.*

## TITLE III—STANDARDS AND ENFORCEMENT

### EFFLUENT LIMITATIONS

SEC. 301. (a) * * *

* * * * * * *

(h) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) *or subsection (b)(2)(B), or both such subsections*, of this section with respect to the discharge of any pollutant [in an existing discharge] from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;

(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit[;].

[(8) any funds available to the owner of such treatment works under title II of this Act will be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection.]

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. *A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) or (b)(2)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters.*

* * * * * * *

[(j)(1) Any application filed under this section for a modification of the provisions of—

[(A) subsection (b)(1)(B) under subsection (h) of this section shall be filed not later than 270 days after the date of enactment of the Clean Water Act of 1977;

[(B) subsection (b)(2)(A) as it applies to pollutants identified in subsection (b)(2)(F) shall be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304 or not later than 270 days after the date of enactment of the Clean Water Act of 1977, whichever is later.]

*(j)(1) Any application filed under this section for a modification of the provisions of subsection (b)(2)(A) as it applies to pollutants identified in subsection (b)(2)(F) shall be filed not later than two hundred and seventy days after the date of promulgation of an applicable effluent guideline under section 304 or not later than two hundred and seventy days after the date of enactment of the Clean Water Act of 1977, whichever is later.*

○

## Union Calendar No. 172

97TH CONGRESS
1ST SESSION

# H. R. 4503

[Report No. 97–270]

To amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1981

Mr. ROE (for himself, Mr. HOWARD, Mr. HAMMERSCHMIDT, and Mr. CLAUSEN) introduced the following bill; which was referred to the Committee on Public Works and Transportation

OCTOBER 9, 1981

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 16, 1981]

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# A BILL

To amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1981".*

*Sec. 2. Section 201(g)(5) of the Federal Water Pollution Control Act is amended by striking out "more efficient use of energy and resources." and inserting in lieu thereof "most efficient use of energy and resources which will result in the lowest net cost of water and sewer service to the consumer.".*

*Sec. 3. Section 201(k) of the Federal Water Pollution Control Act (33 U.S.C. 1281(k)) is hereby repealed.*

*Sec. 4. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:*

*"(k) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—*

*"(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;*

*"(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and*

*"(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.".*

*SEC. 5. (a) Section 205(c) of the Federal Water Pollution Control Act is amended by inserting after the first sentence the following: "Sums authorized to be appropriated pursuant to section 207 for the fiscal year ending September 30, 1982, shall be allotted for such fiscal year by the Administrator not later than the tenth day which begins after the date of enactment of the Federal Water Pollution Control Act Amendments of 1981.".*

*(b) Section 205(c) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982,".*

*(c) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1981" each of the two places it appears and inserting in lieu thereof at each such place "1981, and 1982".*

*SEC. 6. (a) The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting immediately after "October 1, 1977," the following: "except in the case of the fiscal year beginning October 1, 1981, in which case the percentage authorized to be reserved shall not exceed 4 per centum,".*

*(b) Section 205(g)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.".*

*SEC. 7. (a) Section 205(i) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," in the first sentence and inserting in lieu thereof "September 30, 1981, and September 30, 1982," and by adding at the end thereof the following: "Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 3 per centum nor more than 5 per centum of the funds allotted to such State for the fiscal year ending September 30, 1982, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".*

*(b) Section 202(a)(2) of the Federal Water Pollution Control Act is amended by striking out "1981" and inserting in lieu thereof "1982" and by striking out "significant portion" and inserting in lieu thereof "any component".*

*(c) Section 202(a)(4) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981." and inserting in lieu thereof "September 30, 1981,*

*and September 30, 1982." and by striking out the last sentence.*

*SEC. 8. Section 204(a)(6) of the Federal Water Pollution Control Act is amended by striking out ", or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal' " and by adding at the end thereof the following: "When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.".*

*SEC. 9. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1981, or $100,000, whichever amount is the greater.*

*"(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to,*

*"(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;*

*"(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A); and*

*"(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, reporting on these annually.*

*"(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.*

*"(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.".*

*SEC. 10. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal*

*year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.".*

*SEC. 11. Section 207 of the Federal Water Pollution Control Act is amended by striking out all that follows "September 30, 1982," and inserting in lieu thereof "not to exceed $2,400,000,000.".*

*SEC. 12. Section 212(1) of the Federal Water Pollution Control Act is amended by inserting after "procedures," the following: "field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 304(d)(3) of this Act,".*

*SEC. 13. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:*

*"COST EFFECTIVENESS*

*"SEC. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste*

*treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) of which is used for ultimate disposal of residues resulting from such treatment; and water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.*

*"(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any*

*grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.*

*"(c) This section applies to projects for waste treatment and management for which no treatment works included in a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under the Federal Water Pollution Control Act before the date of enactment of this section.".*

*SEC. 14. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:*

*"STATE CERTIFICATION OF PROJECTS*

*"SEC. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance*

*under this title, the Administrator shall approve or disapprove such application within thirty days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within thirty days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.".*

*SEC. 15. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:*

*"PUBLIC HEALTH AND WATER QUALITY BENEFITS*

*"SEC. 220. It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.".*

*SEC. 16. (a) Section 301(h) of the Federal Water Pollution Control Act is amended in the portion preceding paragraph (1) by striking out "in an existing discharge" and by* *inserting after "subsection (b)(1)(B)" the following: "or subsection (b)(2)(B), or both such subsections,".*

*(b) Such section 301(h) is amended by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and by striking out paragraph (8).*

*(c) Such section 301(h) is further amended by adding at the end thereof the following: "A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) or (b)(2)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters.".*

*(d) Section 301(j)(1) of the Federal Water Pollution Control Act is amended to read as follows:*

*"(j)(1) Any application filed under this section for a modification of the provisions of subsection (b)(2)(A) as it applies to pollutants identified in subsection (b)(2)(F) shall be filed not later than two hundred and seventy days after the date of promulgation of an applicable effluent guideline under section 304 or not later than two hundred and seventy days after the date of enactment of the Clean Water Act of 1977, whichever is later.".*

*SEC. 17. Notwithstanding section 204(a)(5) of the Federal Water Pollution Control Act, before approving grants under section 201(g) of such Act for any project for treatment* *works to which this section applies, the Administrator of the Environmental Protection Agency shall determine that the size and capacity of such works relate to the needs to be served by such works including sufficient reserve capacity, except that no grant, other than for facility planning and the preparation of construction plans and specifications, shall be made under title II of such Act to construct that portion of such treatment works providing reserve capacity in excess of projected needs for a period of ten years after receipt of the first application for Federal financial assistance under this Act with respect to such treatment works. This section applies to treatment works which have not received Federal financial assistance under the Federal Water Pollution Control Act for the preparation of construction plans and specifications or for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works before the date of enactment of this section and to treatment works which have received such assistance and have been entirely completed before the date of enactment of this Act. This section does not apply to any treatment works not completed on the date of enactment of this section which has been funded entirely by State and local financing and which, if it had been applied for, would have been eligible for Federal financial assistance under this Act.*

*Sec. 18. Notwithstanding any provision of the Federal Water Pollution Control Act, except as otherwise provided in this section, in the case of any treatment works eligible to receive Federal financial assistance under such Act which has not received any such assistance before the date of enactment of this section, and in the case of any treatment works which has received such assistance and has been entirely completed, the Administrator of the Environmental Protection Agency shall make grants under such Act only for projects for secondary treatment or more stringent treatment, or any cost-effective alternative thereto, new interceptors and appurtenances, sewer system evaluation studies under section 201(g)(4) of such Act, and infiltration-in-flow correction. The Administrator is authorized to make grants for such works for any project within the definition set out in section 212(2) of such Act, other than for a project referred to in the preceding sentence, except that not more than 30 per centum (as determined by the Governor of such State) of the amount allotted to a State under section 205 of such Act shall be obligated in such State under authority of this sentence. This section does not apply to any treatment works not completed on the date of enactment of this section which has been funded entirely by State and local financing and which, if it had been applied for, would have been eligible for Federal financial assistance under this Act.*

*SEC. 19. It is the sense of Congress that judicial notice should be taken of this Act and of the amendments to the Federal Water Pollution Control Act made by this Act, including reduced authorization levels under section 207 of such Act, and that the parties to Federal consent decrees establishing a deadline, schedule, or timetable for the construction of publicly owned treatment works are encouraged to reexamine the provisions of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions.*

*SEC. 20. The Administrator of the Environmental Protection Agency shall submit to the Congress, not later than June 30, 1982, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 516(b) of the Federal Water Pollution Control Act. Such report shall be prepared in the same manner as is required by such section and shall reflect the changes made in the Federal water pollution control program by this Act and the amendments made by this Act. In preparing this report, the Administrator shall give emphasis to the effects of the provisions of section 18 of this Act in addressing water quality needs adequately and appropriately.*

*SEC. 21. For purposes of the Federal Water Pollution Control Act, the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments* *from sums allocated to the State of Michigan under such Act in an amount equal to the amount such works would be eligible for under section 202 of such Act if such works were to be constructed after the date of enactment of this Act, at the original construction cost.*

# SENATE DEBATE ON S. 1716

*October 27 and 29, 1981*
(Congressional Record, vol. 127, part 19, 25506-25513,
and vol. 127, part 20, 26018)

## CONGRESSIONAL BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I ask the minority leader if he is in position to consider Calendar Order 343, the Congressional Budget Act waiver to S. 1716?

Mr. ROBERT C. BYRD. Mr. President, the minority is ready to proceed.

The Senate proceeded to consider the resolution (S. Res. 226) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1716, which was considered and agreed to, as follows:

S. Res. 226

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1716, to amend the Clean Water Act and authorize funding for wastewater treatment construction grants program. Such waiver is necessary to permit consideration of a fiscal year 1982 authorization of appropriations to carry out the purpose of S. 1716.

Such waiver is necessary as S. 1716 was not reported before May 15, 1981, as required by section 402(a) of the Congressional Budget Act of 1974.

Additional time was required to conduct a comprehensive reexamination of this multi-billion-dollar pollution abatement program as a result of the fiscal year 1981 rescission and the repeal of the previously enacted authorization for fiscal year 1982 pursuant to the Omnibus Reconciliation Act of 1981.

## CLEAN WATER ACT AMENDMENTS OF 1981

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar 296, S. 1716, the Clean Water Act Amendments of 1981.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1716) to amend title II of the Clean Water Act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I am pleased to bring to the Senate today comprehensive amendments to the Environmental Protection Agency's municipal waste water treatment construction grants program. Extensive hearings were held on this legislation and it was reported without a single dissenting vote from the full committee. For a number of reasons, when the committee report was filed, the CBO cost estimate was unavailable. It has since been made available and I wish to include the letter and cost estimate in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Congressional Budget Office,
*Washington, D.C., October 14, 1981.*

Hon. Robert T. Stafford,
*Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for S. 1716, the Clean Water Act Amendments of 1981.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
*Director.*

Congressional Budget Office
Cost Estimate

1. Bill number: S. 1716.

2. Bill title: Clean Water Act Amendments of 1981.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, September 23, 1981.

4. Bill purpose: S. 1716 authorizes the appropriation of $2.4 billion for the Environmental Protection Agency (EPA) municipal wastewater treatment construction grants program for each of the fiscal years 1982 through 1985. In addition, the bill authorizes $200 million annually, beginning in fiscal year 1983, to correct combined sewer overflows into marine bays and estuaries. (The initial fiscal year 1981 appropriation for construction grants was $3.3 billion, of which $0.8 billion was later rescinded.) Fiscal year 1982 through 1984 funds are to be allocated among the states in accord with a new allotment schedule. The new formula includes a hold harmless provision that provides a minimum share per state in fiscal years 1982 through 1984 based on the amount a state would have received had the old formula been carried forward.

Numerous provisions of the existing wastewater treatment construction grant program are modified. Currently, grants are awarded in three steps—planning, design, and construction. This bill would delay reimbursement for the first two steps until after approval of a step 3 (construction) grant application.

Under current law, the federal share of costs of wastewater treatment facility construction is 75 percent for conventional projects or 85 percent for innovative and alternative projects. Passage of this bill would result in a gradual decrease in the federal share of costs for new projects. The new share would be 65 percent in fiscal years 1982 through 1984 and 55 percent thereafter for conventional projects, with funding for innovative and alternative projects at a rate 20 percent higher than that for conventional treatment processes, up to a maximum of 85 percent. Furthermore, the statutory deadline of September 30, 1981, on innovative and alternative projects is repealed.

This bill would limit grant eligibility to three categories of waste treatment facilities—secondary treatment, advanced treatment beyond secondary, and new interceptors and appurtenances. Various biological treatment facilities to treat waste waters from combined storm and sanitary sewers may be considered as equivalent to secondary treatment so long as those methods do not adversely affect water quality. Communities that have received grants for collector sewer construction prior to October 1, 1981, and meet certain criteria may continue to receive such federal funding from their respective states allotment of grant funds.

Current law requires that the size and capacity of treatment works relate directly to the needs to be served, including sufficient reserve capacity. This bill would prohibit step 3 grants for constructing reserve capacity for new projects and would tie grant eligible size and capacity to 1980 population statistics, with an allowance in design flow capacity for existing industrial flows.

The industrial cost exclusion provision of the Federal Water Pollution Control Act (FWPCA), which limits the flow of industrial sanitary waste handled by publicly owned treatment works to 50,000 gallons per day, effective November 15, 1981, is modified to allow design flow capacity for treatment of existing industrial flows for projects receiving step 2 grant approval after May 15, 1980.

The bill modifies the determination of the amount set aside by states for administration and designates an additional amount of funds to be set-aside for water quality management assistance. These amounts are tied to the sum of unexpended obligations and unobligated allotment funds available to a state at the beginning of a fiscal year, but in no case should they be less than $400,000 and $100,000, respectively. In addition, the mandatory set-aside of funds to increase the federal share for innovative and alternative projects is increased from a maximum of 3 percent to a minimum of 4 percent of a state's allotment.

EPA is required to submit a report within 18 months of passage of this bill identifying publicly owned treatment works not yet in compliance with secondary treatment goals, assessing the impact of the 1981 amendments to the FWPCA on the cost of completing the federal construction grant program, and estimating the remaining federal expenses necessary to complete the program. The secondary treatment compliance deadline is extended by the bill from July 1, 1983, to July 1, 1988.

5. Cost estimate (by fiscal years, in millions of dollars):

| | 1982 | 1983 | 1984 | 1985 | 1986 |
|---|---|---|---|---|---|
| Authorization level | 2,400 | 2,600 | 2,600 | 2,600 | 200 |
| Estimated outlays | 20 | 285 | 995 | 1,715 | 2,115 |

Including outlays from previous years' appropriations, total construction grant outlays are estimated to be $3.9 billion in 1982, $3.6 billion in 1983, $3.4 billion in 1984, and $2.9 billion in 1985, assuming appropriation of the authorized levels.

The estimated cost to EPA of preparing the mandated report on remaining municipal wastewater treatment needs is approximately $2 million to be spent approximately evenly between 1982 and 1983.

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization levels are those stated in the bill. Public Law 97-51, which makes continuing appropriations for fiscal year 1982, provided $2.4 billion for the construction grants program, contingent upon enactment of reform legislation and a subsequent 1982 budget request. For purposes of this cost estimate, it was assumed that S. 1716 would be passed and the entire $2.4 billion 1982 authorization appropriated by December 1, 1981, under the conditions prescribed in the continuing resolution or in some other form. For fiscal years 1983 and beyond, it was assumed that authorized sums would be appropriated by the start of each fiscal year.

The estimated outlays of the construction grant funds are based on historical spending patterns for the program, for which projects often take seven or more years to complete. Various provisions in the bill might result in faster or slower outlay rates, but the net effect of these provisions cannot be determined with accuracy.

Several provisions in the bill, such as the limitation of funding for reserve capacity to planning and design phases and the decreased federal share of construction costs, may significantly affect the demand for construction grants in future years. As a result, appropriated grant funds under this bill will be spent on projects somewhat different in nature from those projects that would have received grants in the absence of these amendments.

7. Estimate comparison: None.

8. Previous CBO estimate: On October 7, 1981, the Congressional Budget Office transmitted a cost estimate for S. 1716 that incorrectly stated that the current authorization for the EPA construction grant program is $5 billion. That authorization was repealed by the Reconciliation Act of 1981 (P.L. 97-35). This estimate supersedes the previous CBO estimate.

A cost estimate of the House version of this bill, the Federal Water Pollution Control Act Amendments of 1981, H.R. 4503, was prepared for the House Committee on Public Works and Transportation on October 9, 1981.

The House and Senate versions of the Clean Water Act Amendments of 1981 differ in many regards. The Senate bill authorizes $2.4 billion for the wastewater treatment construction grant program in each of fiscal years 1982 through 1985, and an additional $200 million annually in fiscal years 1983 and beyond for the correction of combined sewer overflows into marine bays and sanctuaries. H.R. 4503 authorizes the appropriation of $2.4 billion for the construction grant program for fiscal year 1982 only and does not include an additional authorization for combined sewer overflow treatment grants. The House bill authorizes the continued use of the existing allotment formula; the Senate bill sets forth a new formula to be used in fiscal year 1982 through 1984.

The bills also have different provisions with regard to the industrial cost exclusion provision of the Clean Water Act, the size of the set-aside from a state's allotment for increasing the federal share of innovative and alternative projects, and the limitation on federal funding of reserve capacity.

The Senate bill defers reimbursement for steps 1 and 2 grants until after approval of a step 3 grant application beginning October 1, 1981. The Senate bill also extends the municipal secondary treatment compliance deadline from July 1, 1983 to July 1, 1988.

The House bill does not contain corresponding provisions. However, it directs the Administrator of EPA to allot sufficient funds, from 1982 appropriations, to the State of New York to convey sewage from the New York City Convention Center to the Newtown Sewer Treatment Plant in Brooklyn, New York.

9. Estimate prepared by: Anne Hoffman (226-2860)

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Mr. CHAFEE. Since the Federal Water Pollution Control Act was passed in 1972

Congress has authorized $44 billion and appropriated $35 billion to assist States and local governments in the construction of needed treatment facilities. In turn the States have obligated $29 billion to approximately 17,000 projects nationwide. Unless we act expeditiously, projects in more than half of the States will be halted because of insufficient Federal support.

As chairman of the Subcommittee on Environmental Pollution and floor manager of this complex legislation I want to insure the Senate that the Pollution Subcommittee and full Environment and Public Works Committee has worked diligently to bring the issue before the full Senate today. Pressure has been building since March. During the reconciliation process the President requested that the Congress in effect "zero out" this program for 1982. No funds were to be included in the 1982 budget until the program reforms were enacted. The President sent his reforms to Congress in April. Several members of our committee introduced that legislation which became S. 975. Those amendments focused on limiting the eligible categories of treatment works which could receive Federal grant assistance and called for an end to grants which subsidized growth.

Shortly after that legislation was introduced, I introduced a more comprehensive set of amendments to the program, S. 1274. Those amendments were more comprehensive than the administration's request and provided for much needed multiyear funding.

Before discussing the merits of S. 1716, I want to outline the situation that the subcommittee found itself in when we started working on these amendments. Every 2 years the Environmental Protection Agency is required by law to develop for the Congress a survey of the State and local needs for this program. The most recent "needs survey" was delivered to the Congress this past spring. It reported the total need for the eligible categories of treatment facilities to be $120 billion. The Federal share of that total is $90 billion.

Given our present budgetary situation it is clear that the Federal Government will never have the resources to address needs of this magnitude. The time had come when a decision had to be made about this program's future which was not going to be easy. Quite frankly, the 1972 act may be responsible for improved water quality nationally and be a landmark in environmental law but it also elevated expectations about the Federal commitment to construct sewers too high.

During the summer the Subcommittee on Environmental Pollution held 6 days of hearings in Washington and a field hearing in Providence, R.I. We heard testimony from over 60 public witnesses and developed a record in excess of 1,000 pages. We had many excellent suggestions on what course the subcommittee should follow in reforming the municipal waste treatment program. The witnesses represented Federal and State governments, public interest groups, and the private sector.

After reviewing the hearing record the committee determined that two key elements had to be addressed in this rewrite: Focusing fewer dollars of the most urgent treatment needs and providing stability in the program so that States and local governments can adequately plan their capital budgets. Although some things are no longer eligible for funding, the bill encourages correction of infiltration and inflow. Infiltration and inflow is a significant problem but its correction should be part of local maintenance responsibility.

S. 1716 includes many of the recommendations that the President made in the spring, but not all of them. This legislation requires that States structure their priority lists for receiving funds on public health and water quality. It takes the construction grant program out of the business of subsidizing growth and focuses the fewer Federal dollars on treatment of pollution, not creating it.

In the future, sewerage collection systems can only be constructed when several strict criteria are met. The same is true of funding for growth capacity. However, S. 1716 provides minimal disruption of the ongoing process so that this transition period from a vast set of eligibilities to a more focused one is not disruptive enough to slow the program down. It also reduces Federal exposure to a level acceptable and within reach.

S. 1716 contains another significant change; the gradual reduction of the Federal share from its present 75 percent down to 55 percent. This reduction is prospective. It does not affect facilities which have already reached a certain stage in the grant process. The committee determined that the only way to address many of the projects in the pipeline is to require that the Federal dollars be spread thinner. I want to emphasize one more time however that this step will not effect projects which have received step 3 construction grants. It will only effect projects which are in the earliest stages of development.

This program has been roundly criticized during the last year by the media and other organizations which have failed to appreciate its history. The instantaneously clean water that was expected was not forthcoming. Although recent trends point to generally improved water quality, dramatic national results are just beginning to emerge. There are several reasons for this but the one that attracted our attention was program instability. Since its inception the funding cycle has been erratic.

First there were impoundments which held up a large portion of promised Federal dollars. Subsequently, that impoundment was determined to be illegal. Huge State allocations were suddenly available. States found themselves in a position of having more money available to them than they had staff to handle. Then, in the late 1970's the administration gradually reduced its funding request to well below the authorization levels. This year several billion dollars were actually taken away from the States just as they were preparing to commit them. To cap this off and further keep instability in this mix, the administration proposed only a 1-year program.

Clearly what is needed after reviewing this dismal funding performance is a signal to State and local governments that Congress intends that this program should move forward smoothly and efficiently. Maximizing water quality improvement should be our concern, not legislating instability. For that reason, S. 1716 authorizes 4 years of funding for the construction grants program at the level the President requested, $2.4 billion. Providing stability and program direction will be an important step in getting needed facilities on line to treat municipal wastes and further clean up our lakes, rivers, and streams.

S. 1716 is comprehensive legislation that will provide the type of new direction the President is seeking and that the public is demanding. Fewer Federal dollars will be focused on treatment of waste, not encouraging more of it. This legislation takes important steps to provide for greater accountability from those who design and construct municipal facilities, more use of the innovative and alternative treatment systems, and a special program to deal with the problem of combined sewer overflows. At this point in the RECORD I ask unanimous consent to include a brief summary of the legislation.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

### SECTION-BY-SECTION ANALYSIS OF THE CLEAN WATER ACT AMENDMENTS OF 1981

(As approved by the Subcommittee on Environmental Pollution Wednesday, July 15, 1981)

Section 1. Title.

Section 2. Provides that after October 1, 1981, states and local communities will have to provide funding for the engineering and design phases of publicly owned waste treatment facilities. In the event that a step 3 construction grant is awarded by the Federal government, the Federal share of steps 1 and 2 will be reimbursed to the grantee. The Administrator is required to promulgate regulations which establishes the percent of the construction grant to be used to repay the grantee for costs incurred. That percentage is to be based on actual experience with the program. States are authorized to provide loans to communities to begin the planning process for facilities.

Section 3. Provides for the gradual reduction of the Federal share of wastewater treatment facilities from 75 percent through fiscal year 1981 to 65 percent through fiscal year 1984 and 55 percent thereafter. It will not affect grants which had approval to proceed with step 2 plans prior to September 30, 1981. Municipalities which had voter approved bonds prior to July 1, 1981 and which receive a construction grant prior to July 1, 1985 shall receive a 75 percent grant.

Section 4. Provides for limitation on the eligible waste treatment facilities that may receive Federal cost-sharing assistance in the future. In the future, the eligible categories will be secondary treatment, more stringent than secondary treatment, and new interceptors and appurtenances. These correspond to categories I, II, and IV b of the EPA Needs Survey.

Section 5. Provides that any grant for innovative or alternative wastewater treatment systems shall receive 20% in excess of the prevailing Federal cost-sharing at the time the grant is made, but not in excess of a 85% Federal share.

Section 6. Extends the authorization period for the innovative and alternative wastewater treatment program.

Section 7. Provides that a Governor may use a portion of his allotment for treatment of combined sewer overflows upon demonstrating to the Administrator that the water quality goals of the Act will not be achieved without such treatment.

Additionally it amends the Act to include a new provision by which the Administrator, upon the demonstration of need by the Governor of a State, may fund the necessary facilities to correct combined sewer overflows where the receiving waters will not be improved by other methods or wastewater treatment. It is restricted to those facilities discharging into bays and estuaries.

This section also allows Governors to utilize federal funds for the construction of sewage collection systems when several criteria are met. Funding of collection systems in communities of 3500 can continue through FY 1982 when the needs of the 1980 population are being addressed and the system is needed to correct an existing discharge into ground or surface waters. It also allows sewage collection facilities which received step 3 grants prior to October 1, 1981 and not the same criteria as the small communities provision to complete the planned facility.

Section 8. The combined grant ceiling is raised from $4 million to $8 million and turned into a turn key program.

Section 9. Provides that after enactment of the 1981 amendments, no grant shall include any Federal funds for meeting the needs of population beyond that included in the 1980 Census unless the facility received approval to proceed with steps prior to September 30, 1981 and which receives a construction grant for a phase of the project prior to October 1, 1983.

Section 10. Amends the Act by deleting the reference to "two brand names or equal" in 204(a) 6 and inserts in lieu thereof "or equal".

Section 11. Amends the Act to require that the prime consultant to a grantee remains on the site for one year following start-up to certify to EPA and the appropriate agency that the treatment works is in compliance with its permit.

It also provides for no Federal preemption of any state or local requirements.

Section 12. Provides an allocation of funds among the states for four years. For the first three years, 1982, 1983, and 1984 the funds will be allotted in accordance with categories I, II, and IV b, with a descending hold harmless provision of 90, 85 and 80 percent of the recently completed EPA Needs Survey. Beginning in 1985, funds will be allotted among the states based on the impact of publicly owned treatment works on water quality. No state would receive less than one-half percent.

Section 13. Provides that state management assistance grants will be negotiated by the Administrator with each state. The amount of each grant shall be directly related to the unexpended obligations and unobligated allotments available to each state.

Section 14. Amends section 205 to allow

states to use construction grant funds similarly to state management assistance grants either at the state level or through areawide planning agencies to assist in relating investment decisions to water quality needs.

Section 15. Provides that for the innovative and alternative program a state shall expend at a minimum, 4 percent of its allocation in each fiscal year for innovative and alternative treatment systems.

Section 16. Authorizes $2.4 billion per year for the construction grants program for each of the four years authorized by this Act.

Section 17. Requires the states to restructure their priority lists to give priority to those projects which will have the most significant benefits in public health and water quality.

Section 18. Requires EPA and the states to complete revision of water quality standards within three years of enactment in order to participate in the program.

Section 19. Extends the deadline for the uniform achievement of secondary treatment by municipalities through the municipal waste discharge permit program. It does not affect those facilities which are on schedule and will be completed prior to that date. In addition, Section 19 removes the best practicable waste treatment technology standard for municipalities from Sec. 301.

Section 20. Provides that facilities such as oxidation ponds, lagoons, trickling filters and devices to treat waste waters from combined sewers will be considered the equivalent of secondary treatment when they can make certain demonstrations to the Administrator.

Section 21. Requires the Administrator of the Environmental Protection Agency to report to the Congress concerning the impact of these amendments on the cost of completing the Federal wastewater treatment effort. This report is to be transmitted to the Congress within 18 months of enactment of these amendments.

Section 22. A technical amendment which corrects several misprints in Section 116(b) of the Clean Water Act.

Mr. CHAFEE. Before closing I want to thank the full committee chairman, Bob Stafford, and the ranking minority member, Jennings Randolph, for assisting me in getting this bill before the Senate today. As usual, their contributions to S. 1716 were substantial and their input was appreciated. I also want to thank Senators Mitchell and Gorton for attending all the hearings and markups and giving the subcommittee activities their undivided attention.

I am hopeful that we can enact this needed legislation rapidly so that the States with programs left unfunded or nearly unfunded will not experience an unnecessarily prolonged delay in funding needed projects.

There are three technical amendments that I am pleased to offer for the committee. The amendments are technical in nature and do not address the substance of S. 1716 and are being done on behalf of Senator Stafford and Senator Cranston.

Mr. RANDOLPH. Mr. President, today the Senate considers S. 1716, the Clean Water Act Amendments of 1981. I support this legislation, which authorizes significant changes in the construction grant program which is contained in title II of the act. As one of the original authors of the Clean Water Act of 1972, I have watched the progress of this program carefully over the years. Its positive achievements are many, and have resulted in calculable improvements to the waters of our Nation.

The basic goals of the Clean Water Act and the construction grant program, that of preventing further degradation of our water and the cleanup of existing pollution, have been found valid. This legislation does not in any way alter those goals. It does, however, provide the means by which our objectives may be met with fewer Federal dollars. The reduced Federal share and the reduction of eligible project categories, mandated in this bill, will place an increased burden on the States. The time originally thought to be required for the achievement of acceptable water quality will probably be lengthened. This is unfortunate, but necessary, in the face of current economic constraints.

With regard to the reduced project categories eligible for Federal funding under this legislation, I wish to highlight one particular category—collector sewers. In the bill which was developed by the Subcommittee on Environmental Pollution, collector sewers were eliminated from eligibility for assistance under the Clean Water Act. I felt this to be ill-advised.

Since the inception of the construction grant program, Federal funds have been available to help communities build collector sewers as part of their overall treatment systems. This authority has been invaluable, particularly to smaller communities such as in West Virginia and other States, where collectors are the most viable treatment systems. Many of these smaller communities do not have the economic basis to finance sewer construction without Federal assistance.

The importance of Federal assistance for collector sewers is illustrated by the fact that prior to 1972, the State of West Virginia frequently was unable to use all of the water pollution control funds allocated to it. Since that time, however, with the authority to construct collectors, every cent available to that State has been utilized. In recent years, approximately two-thirds of the money for West Virginia's construction grant needs has been used to provide collector sewers, primarily for small, rural communities. The State of West Virginia now has requests from communities for water quality projects totaling $305 million, of which $180 million is for collectors.

West Virginia is not the only State in this position. Many other States with large numbers of smaller communities would suffer if collector sewers were summarily removed from project eligibility. I therefore offered an amendment at the full committee level to restore collector sewer eligibility, but in a far more limited manner than in existing law. As adopted by the committee, the amendment would allow communities of less than 3,500 population to continue to construct collectors.

This authority, however, would extend only through fiscal year 1982. Funds to be used for this purpose must be obligated prior to October 1, 1982; fiscal 1981 funds may also be used. The funding is to come from the section 205 funds allocated to the pertinent State.

The amendment further limits funding for collector sewers to circumstances in which the public health is threatened from existing discharges into ground or surface water; such condition is included in a State's priority list; sufficient demonstration is made that a collector sewer is geologically and technically preferable to other systems; and that it is the most cost-effective alternative. These conditions assure that such collector sewers will be constructed to serve existing needs and not future growth.

I emphasize that this amendment will in no way increase the cost of this legislation. Any funds expended for collector sewers would come from a State's regular allocation and only at the request of the Governor.

This amendment will insure that smaller communities with imperative water pollution control needs may continue, for a short time, to use construction grant funds for the construction of collector sewers.

Another aspect of this legislation which I emphasize is the continuation of incentives for projects employing innovative and alternative technology. These systems usually have lower capital and energy requirements. The committee has encouraged their use since the 1977 amendments by providing up to 85 percent Federal funding and by mandating a 3-percent State set-aside annually for such systems.

In recognition of the importance the committee attaches to innovative and alternative technology, this legislation continues the higher funding even with the reduced level of overall Federal support. In addition, the percentage of allocated funds to be earmarked by States for funding such systems is raised from 3 percent to 4 percent.

I believe in the importance of developing innovative and alternative systems as the most promising tool for the encouragement of new, low-cost technology for communities, and I heartily endorse these aspects of this legislation.

In closing, Mr. President, I commend the Members of the Committee on Environment and Public Works for their efforts in the development of this legislation. The Subcommittee on Environmental Pollution, chaired by the able Senator JOHN CHAFEE, held extensive hearings on the construction grant program. As ranking minority member of the subcommittee, Senator GEORGE MITCHELL deserves special note for his diligence in participating in the hearing and markup sessions on this legislation.

Subsequent to subcommittee markup, the measure was considered at full committee, where Chairman ROBERT STAFFORD made significant contributions to the bill. I commend these and all the other members of the Environment and Public Works Committees for the time and diligence directed toward development of the Clean Water Act Amendments of 1981. Mr. President, I urge the speedy approval of this important legislation.

Mr. ABDNOR. Mr. President, I would like to rise in strong support of S. 1716, to amend the Clean Water Act.

The distinguished chairman and ranking minority member of the Environmental Pollution Subcommittee, Mr. CHAFEE and Mr. MITCHELL, and the distinguished chairman and ranking minority member of the full committee, Mr. STAFFORD and Mr. RANDOLPH, have done an outstanding job in working with members of the committee to develop much-needed reforms of the EPA municipal wastewater treatment construction grant program. The revisions agreed to by the committee represent a bipartisan effort to meet the basic objectives set forth by the administration, while enabling us to move forward with the original intent of this program, which is to clean up our Nation's existing water pollution problems. As chairman of the Subcommittee on Water Resources, I am firmly committed to the preservation of this extremely valuable, and finite, resource.

I would like to remind my colleagues that if this body fails to pass a reform package acceptable to the administration, we will see the end of this vitally important program. Further, I would like to point out that in view of the expansive eligibility provisions being considered by the other body, it is imperative that we approve the measure before us today.

Through enactment of this well-balanced legislation, the efforts made by your States and mine will continue, making possible significant improvement in our Nation's water quality. Again, I commend the leadership of the Committee on Environment and Public Works and I ask my colleagues to join me in support of S. 1716.

Mr. STAFFORD. Mr. President, I would like to add a few words to those of the distinguished manager of the bill, Senator CHAFEE, in support of S. 1716, to amend and reauthorize the municipal wastewater treatment construction grants program. In a year in which the Senate's legislative activity seems little more than wave after relentless wave of revisions to the Federal budget, we have produced a bill that does more than reauthorize a familiar program at reduced levels of Federal spending. We have reshaped and refined one of history's most ambitious efforts in public construction to more effectively achieve its purpose: to help our cities improve the quality of the waters of the United States.

It is a credit to Senator CHAFEE's skill and determination as chairman of the Environmental Pollution Subcommittee that the difficult task of trying to do more with less has been received by the committees and by the Senate with such a broad base of acceptance.

This is in part due to the extensive hearings and consultation that the committee has sought with Governors and mayors, State and local environmental officials, affected industries and engineering professionals, environmental and other public interest groups. It is also due to the desire of Congress to respond constructively to the mandate to reduce Federal spending and more efficiently deploy what Federal financial resources are available.

I believe that we have succeeded in applying the economic themes articulated by the Reagan administration to this major Federal program. We have included in this bill most of what the President requested in the way of reforms of the construction grants program.

Importantly, it authorizes $2.4 billion in fiscal 1982, exactly the level the President is pledged to request when program reforms are finally enacted. The pending bill, over the next 4-year reauthorization period, will eliminate the Federal subsidy for constructing expensive reserve capacity, that is more appropriately a local responsibility. Federal funding will henceforth be targeted to those construction activities that most effectively treat and abate water pollution.

The bill also gradually reduces the Federal cost-share over the next few years from the current 75 percent to 55 percent. For all these changes, however, a transition period is provided for projects that are so far along in the planning stage that disruption would prove costly to the overall program.

The committee also removed the uncertainty associated with the eligibility of industrial treatment costs for users of municipal plants. Only the capacity to treat existing discharges from industrial polluters will be eligible for Federal assistance under the bill. Although the treatment of industrial wastewater places considerable financial demands on the limited resources in this program, which was of great personal concern to me throughout our consideration of this bill, the costs of this industrial treatment provision will be minimized by virtue of the other reforms included in the bill.

In particular, the fact that a subsidy for anticipated or unplanned reserve capacity is no longer allowed, and that the Federal share will be declining, will encourage potential industrial users to more carefully evaluate treatment alternatives and water conservation to keep total costs down.

The purpose of our amendment to section 511 is to make it clear that the Clean Water Act and other statutes do not displace, preempt, or in any other way disturb the Federal common law unless by their clear language they say so. This provision is similar to one inserted in the Comprehensive Environmental Response, Compensation, and Liability Act passed by the Congress last year, and is necessitated by the Supreme Court decision in City of Milwaukee against Illinois, which was decided in April of this year.

In that case, the Supreme Court held that in the absence of express language preserving the Federal common law, the statute displaced it. The effect of the decision is to convert what amounts to, at the worst, a congressional oversight into an affirmative act of repeal. It has never been our intention to repeal, displace, or modify another law unless we so state. That is especially true of the common law, which has painstakingly evolved over centuries of decisions.

Therefore, this amendment corrects a misreading of congressional intent and assures that the regulatory program under the Clean Water Act does not displace other Federal law, including common law. The amendment also corrects a similar misinterpretation in Middlesex County Sewerage Authority, et al. against National Sea Clammers Association, regarding private actions in cases of violations of a Federal regultory program.

The amendment, however, does not permit the litigants in those cases to reopen them by virtue of this clarification. In cases such as Milwaukee where the final determination has been made, the litigants must now live with it, unless there are legitimate reasons not created by this amendment to reopen or otherwise revive the suits.

I genuinely believe that this is a bill worthy of the support of the Senate, and of the President's approval. It is critical to securing an appropriation for fiscal year 1982, without which many if not most States will confront a total shutdown of their municipal water quality programs. This would be undesirable and is unnecessary.

Progress on the legislation was greatly enhanced by the helpful and cooperative spirit of Dr. John Hernandez, Deputy Administrator of the Environmental Protection Agency and other administration officials. I am confident that we can continue to count on our excellent working relationship as we move through conference with the House.

Finally, I would like to say something about the Committee on Environment and Public Works itself. When I first came to this committee as its most junior minority member in the middle of the session in 1971, the very first bill I worked on was the landmark water pollution control legislation that became Public Law 92-500. That law created the multibillion-dollar municipal construction grants program. At the time, I realized that we were embarking on a very ambitious effort, though I doubt any of us knew just how expensive the municipal program would turn out to be.

Since then, Congress has appropriated nearly $35 billion to assist the Nation's cities and towns in this joint effort, and the States have contributed billions more. Even with the reforms included in this bill, we will need to spend nearly that much again to finish the job.

I recall in particular the cooperative, bipartisan spirit among members of the Committee on Environment and Public Works in that legislative effort. The 1971 water pollution bill was reported from the committee unanimously. It also passed the Senate unanimously. This was in no small part thanks to the gracious and thoughtful manner in which my friend, Senator Jennings Randolph, guided the committee's work as its chairman in those days.

That was 10 years ago this month. I now find myself the chairman of this same committee, working on a legislative descent of the original bill that served the environmental protection revolution of the 1970's. We are still waging that fight and we continue to have the support of most Americans in our effort to restore environmental quality to our air, water, and physical surroundings. Even though problems with inflation and productivity have required us to alter our environmental strategy from time to time, we remain determined to achieve our original goals that would restore the integrity of the Nation's waters and support its best uses by our people.

It is personally gratifying to me that we as a committee remain united and directed toward these goals. This bill was reported unanimously from the committee several weeks ago, and I know of no opposition to it that has developed since in the Senate. I want to especially thank Senator Randolph for his personal contribution and the cooperation of the minority members in this effort. It is a little more difficult to write legislation in the present economic environment, when we must necessarily be less generous than we would like to be, than it was 10 years ago. I recall that our side gave you its wholehearted support in those days and I am doubly grateful for your support in these more challenging times.

I also recall that the Federal Water Pollution Control Act Amendments of 1972 were enacted over the veto of then-President Richard Nixon. I am confident that the Clean Water Act of 1981 will be a law that President Reagan will be happy to sign. I intend to work toward that end.

Mr. BAKER. Mr. President, I rise in support of S. 1716—the Clean Water Act Amendments of 1981. I heartily commend the Committee on Environment and Public Works for their expeditious action to reform the wastewater treatment program. The committee has responded quickly and thoughtfully to the President's challenge to reduce the scope and eligibilities of this program.

The wastewater treatment program is a necessary component of the overall program to clean up all the waters of this country sufficiently to support aquatic life and recreation. From the beginning, this program has had major difficulties in accomplishing the goals the Congress intended. Abuses of the program and lack of sufficient progress are often cited by critics of the program. The committee bill addresses these problems and the purpose of the reforms in the bill is to correct these abuses and to facilitate reasonable progress.

It is imperative that we enact these reforms quickly because funds will not be available for the wastewater treatment program until appropriate reforms have been enacted. Unless we adopt the needed reforms and funds are provided, many areas will have to cease or severely curtail their efforts to achieve a higher level of wastewater treatment.

The bill before the Senate authorizes funding for this program for 4 years. I support multiyear funding because it will provide much-needed stability and continuity to this program. States will be better able to plan and construct their facilities and reach the goals and objectives of this part of the Clean Water Act with the knowledge of continued availability and extent of funding.

S. 1716 encompasses the reforms in the Clean Water Act which the administration has cited as necessary for funding this year. Once the Senate acts on these reforms, I would urge the committee to preserve these reforms through Conference with our colleagues in the House to insure that funding for this needed program will occur this year.

### UP AMENDMENT NO. 542

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Rhode Island (Mr. Chafee), and the Senator from Vermont (Mr. Stafford) and the Senator from California (Mr. Cranston).

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker), for Mr. Chafee, Mr. Stafford, and Mr. Cranston, proposed an unprinted amendment numbered 542.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 5, after "2." insert "(a)".

On page 3, after line 6, insert the following:

"(b) Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(m) Notwithstanding any other provisions of this title, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 205 of this Act to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board."

On page 7, line 1, strike "The" and insert in lieu thereof "Beginning fiscal year 1983, the".

On page 18, after line 12, insert the following new section:

"Sec. 23. (a) Section 511 of the Clean Water Act is amended by adding a new subsection (e):

"(e) Nothing in this Act shall be construed, interpreted or otherwise deemed to displace, restrict, limit, affect, or modify in any way the obligations or liabilities of any person, or the right to seek abatement or damages, under other Federal or State law, including common law."

(b) The amendment to the Clean Water Act made by subsection (a) of this section shall not be the basis for reopening any judicial proceeding finally adjudicated prior to the date of enactment of this section."

Mr. CRANSTON. Mr. President, I am very pleased that the Clean Water Act reauthorization bill before us, S. 1716, includes a provision to authorize funding for the expansion of the Bayview/Hunter's Point sewage treatment project in San Francisco, Calif. This project is being built to help bring San Francisco into compliance with the Clean Water Act.

At the time the city of San Francisco proposed expanding the sewage treatment facility in the Bayview/Hunter's Point area, there was considerable local community opposition because of the fear that the project would lead to renewed deterioration of the area which is the poorest in the city. EPA in its environmental evaluation of the plant identified numerous adverse effects on the community including odors, visual impacts, disruption to the community during construction, and ongoing traffic and noise impacts during the operation of the plant.

In response to these concerns, San Francisco proposed that a playground be placed on top of the sewage treatment plant as a mitigation measure at a cost of $11 million. The California State Water Resources Control Board, which acts as EPA's representative in determining grant eligibility in California, made a favorable grant eligibility determination and commitment to an $11 million playground project on March 24, 1976 (Order WQG 76-6).

Later because of citizen concern about safety of children playing on top of a sewage treatment plant, the playground mitigation was changed to a greenhouse/skills training center at a cost of $15 million. The greenhouse/skills center is to be constructed next to the sewage treatment plant and connected to the facility by pipes which will carry methane to heat the center and use sludge from the facility as fertilizer for the greenhouse. The center will also provide job training for youthful residents of the Bayview/Hunter's Point area. A favorable grant eligibility determination and commitment to a $15 million greenhouse/skills training project was made by the State on January 22, 1981 (Order WQG 81-1).

On the basis of both the 1976 and the 1981 commitments by the State, San Francisco began construction of the expansion of the Bayview/Hunter's Point Sewage Treatment Plant and gave considerable publicity to the fact that the greenhouse/skills center would be built as mitigation. New portions of the plant are now partially operational.

However, EPA recently notified San Francisco that the greenhouse/skills center would not be eligible for grant funding under the Clean Water Act. This notification was made in spite of the prior grant commitments by the California State Water Resources Control Board of which EPA was fully aware.

Both the State and San Francisco continue to believe that the mitigation work is grant eligible. Moreover, they would like to keep their commitments to the Bayview/Hunter's Point community and avoid lengthy litigation by area residents. I fully concur that there are strong equities supporting funding of the greenhouse/skills training center as part of the Bayview/Hunter's Point sewage treatment facility expansion project.

Thus, I am deeply appreciative of the assistance of the distinguished Senator from Rhode Island (Mr. CHAFEE) in including in the Clean Water Act Reauthorization a provision which would permit the California State Water Resources Control Board to fund this San Francisco project out of the State's share of clean water funds. The provision does not increase expenditures under the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 542) was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1716

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Clean Water Act Amendments of 1981".

SEC. 2. (a) Section 201 of the Clean Water Act is amended by adding a new subsection (l):

"(l)(1) After October 1, 1981, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 202(a) of this Act, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.

"(2)(A) Each State is authorized to use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to establish a revolving fund from which such State may advance to a potential grant applicant under this title the costs of facility planning or the preparation of plans, specifications, and estimates.

"(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant who in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

"(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reserve from such grant the allowance established under paragraph (1) of this subsection and transfer it to the State for replenishment of the revolving fund established under this paragraph. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine."

(b) Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(m) Notwithstanding any other provisions of this title, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 205 of this Act to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board.".

SEC. 3. (a) Section 202(a)(1) of the Clean Water Act is amended by striking "shall be 75 per centum" and inserting in lieu thereof "and before September 30, 1981, shall be 75 per centum, for any fiscal year beginning after September 30, 1981, and before September 30, 1984, shall be 65 per centum, and for any fiscal year beginning after September 30, 1984, shall be 55 per centum".

(b) The amendment to section 202(a)(1) of the Clean Water Act made by subsection (a) of this section shall apply only to grants other than for projects (1) which received grant approval to prepare construction plans and specifications before September 30, 1981, (2) which are subject to a consent decree or other Federal judicial mandate entered on or before December 31, 1980, and for which grants for construction of one or more segments of such project have been approved prior to September 30, 1981, or (3) which had obtained voter approval for the bond financing of the local share prior to July 1, 1981, and receives a grant for construction costs before July 1, 1985.

SEC. 4. Paragraph (1) of section 202(a) of the Clean Water Act is amended by adding the following new sentence before the last sentence thereof: "Notwithstanding any other provision of this Act, for purposes of this section and section 201(g)(1) of this title, grants for treatment works shall be limited to the following categories of projects: secondary treatment or more stringent treatment, or any cost-effective alternative thereof, and new interceptors and appurtenances.".

SEC. 5. The first sentence of section 202(a)(2) of the Clean Water Act is amended to read as follows: "The amount of any grant made after September 30, 1978, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be a percentage rate of the cost of construction thereof 20 per centum greater than the rate established by paragraph (1) of this subsection or the modified uniform percentage rate in which the Administrator has concurred pursuant to such paragraph, but in no event greater than 85 per centum of the cost of construction thereof.".

SEC. 6. Section 202(a)(4) of the Clean Water Act is amended by striking the words "in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981".

SEC. 7. Section 202(a) of the Clean Water Act is amended by adding new paragraphs as follows:

"(5) Prior to October 1, 1982, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to assist new sewage collection systems in existing communities, which are not otherwise eligible under this subsection, where—

"(A) such systems are proposed for municipalities less than 3,500 in population;

"(B) such systems are necessary to protect the public health from existing discharges into ground or surface water;

"(C) correction of such public health problems in such communities is a major priority for such State; and

"(D) the applicant can demonstrate that a system of collection and central treatment is preferable to individual onsite or cluster treatment units because of physical and technical limitations in the area or because collection and central treatment is the most cost-effective alternative.

"(6) Upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to assist a new sewage collection system serving the population as of 1980 in an existing community, which is not otherwise eligible under this subsection, where—

"(A) a grant for construction of a portion of such collection system has been approved before October 1, 1981;

"(B) such system is necessary to protect the public health from existing discharges into ground or surface water;

"(C) correction of such public health problems in such community is a major priority for such State; and

"(D) the applicant can demonstrate that a system of collection and central treatment is preferable to individual onsite or cluster treatment units because of physical and technical limitations in the area or because collection and central treatment is the most cost-effective alternative.

"(7)(A) Upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

"(B) Beginning fiscal year 1983, the Administrator shall have available $200,000,000 per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the requests of and demonstration of water quality benefits by the Governor of an affected State."

SEC. 8. Section 203(a) of the Clean Water Act is amended by striking "$4,000,000" and inserting in lieu thereof "$8,000,000". The last sentence of section 203(a) is hereby repealed.

SEC. 9. (a) Section 204(a)(5) of the Clean Water Act is amended to read as follows:

"(5) that the size and capacity of such works relate to the needs to be served by such works, including sufficient reserve capacity, except that no grant, other than for facility planning and the preparation of construction plans and specifications (to the extent provided under section 202(l) of this Act), shall be made under this title to construct that portion of the treatment works providing reserve capacity. This limitation on grants for the construction of reserve capacity shall not apply to grants for projects which received grant approval to prepare construction plans and specifications before September 30, 1981, and for which grants for construction of one or more segments of the treatment works are approved prior to October 1, 1983. The size and capacity of the treatment works eligible for a grant under this title shall be determined by the Administrator based upon the 1980 population statistics as reported by the United States Department of Commerce: *Provided, however,* That the total eligible design flow capacity of a treatment works may include existing industrial flows as determined by the Administrator; and".

(b) Section 201(k) of the Clean Water Act is amended to read as follows:

"(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of industrial users into such treatment works in excess of the existing flows from such industrial users. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.".

Sec. 10. Section 204(a)(6) of the Clean Water Act is amended by striking ", or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'" and by adding at the end thereof the following: "When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.".

Sec. 11. Section 204 of the Clean Water Act is amended by adding the following new subsection:

"(c)(1) A grant for the construction of treatment works under this title shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this title.

"(2) On the date one year after the completion of construction and initial operation of such treatment works, the owner and operator of such treatment works shall certify to the Administrator whether or not such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to section 402 of the Act for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

"(3) Nothing in this section shall be construed to prohibit a grantee under this title from requiring more assurances, guarantees, or indemnity or other contractural requirements from any party to a contract pertaining to a project assisted under this title, than those provided under this subsection.".

Sec. 12. (a) Section 205(c) of the Clean Water Act is amended by inserting "(1) after "(c)" and by adding the following new paragraph:

"(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, and 1984 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act Amendments of 1981. Sums authorized to be appropriated pursuant to section 207 for the fiscal year 1985 shall be allotted for such year by the Administrator no later than September 30, 1984. Sums authorized for fiscal years 1982, 1983, and 1984 shall be allotted in accordance with the following table:

| "States | Fiscal year— | | |
|---|---|---|---|
| | 1982 | 1983 | 1984 |
| Alabama | 0.011398 | 0.010764 | 0.010131 |
| Alaska | .006656 | .007044 | .007271 |
| Arizona | .006885 | .006502 | .006120 |
| Arkansas | .006668 | .006298 | .005927 |
| California | .070569 | .066648 | .067392 |
| Colorado | .008154 | .007701 | .007248 |
| Connecticut | .012865 | .013615 | .014055 |
| Delaware | .005000 | .005000 | .005000 |
| District of Columbia | .005000 | .005000 | .005000 |
| Florida | .034051 | .032159 | .030979 |
| Georgia | .017234 | .016277 | .015319 |
| Hawaii | .007297 | .007722 | .007972 |
| Idaho | .005000 | .005000 | .005000 |
| Illinois | .046101 | .043540 | .040978 |
| Indiana | .024566 | .023201 | .021836 |
| Iowa | .013565 | .014355 | .014819 |
| Kansas | .008898 | .009417 | .009721 |
| Kentucky | .012974 | .012253 | .011532 |
| Louisiana | .011205 | .010582 | .009960 |
| Maine | .007493 | .007930 | .008186 |
| Maryland | .024653 | .023283 | .021914 |
| Massachusetts | .036690 | .038827 | .040082 |
| Michigan | .042952 | .045455 | .046924 |
| Minnesota | .071428 | .018443 | .019039 |
| Mississippi | .008573 | .008564 | .008841 |
| Missouri | .029203 | .030904 | .031903 |
| Montana | .005000 | .005000 | .005000 |
| Nebraska | .005000 | .005000 | .005000 |
| Nevada | .005000 | .005000 | .005000 |
| New Hampshire | .010696 | .011319 | .011685 |
| New Jersey | .044016 | .046581 | .480874 |
| New Mexico | .005000 | .005000 | .005000 |
| New York | .111177 | .117655 | .121458 |
| North Carolina | .017581 | .016718 | .017258 |
| North Dakota | .005000 | .005000 | .005000 |
| Ohio | .057383 | .054195 | .051007 |
| Oklahoma | .008235 | .007777 | .007320 |
| Oregon | .011515 | .010875 | .010235 |
| Pennsylvania | .038711 | .036560 | .037742 |
| Rhode Island | .007617 | .008060 | .008321 |
| South Carolina | .010443 | .009863 | .009282 |
| South Dakota | .005000 | .005000 | .005000 |
| Tennessee | .013744 | .013894 | .014343 |
| Texas | .038726 | .036575 | .034423 |
| Utah | .005319 | .005629 | .005811 |
| Vermont | .005000 | .005000 | .005000 |
| Virginia | .020496 | .021690 | .022392 |
| Washington | .016484 | .017445 | .018008 |
| West Virginia | .015890 | .015007 | .014124 |
| Wisconsin | .032844 | .034758 | .035881 |
| Wyoming | .005000 | .005000 | .005000 |
| American Samoa | .001118 | .001184 | .001222 |
| Guam | .000661 | .000624 | .000590 |
| Marianas | .000654 | .000692 | .000714 |
| Puerto Rico | .013748 | .014549 | .015019 |
| Pacific Trust Territory | .001236 | .001199 | .001237 |
| Virgin Islands | .000631 | .000668 | .000689 |

Sums authorized for fiscal year 1985 shall be allotted among the States in accordance with the relative effect of eligible publicly owned treatment works on water quality in each State, based on water quality standards and total maximum daily loads of pollutants established under section 303 of this Act and reports of water quality submitted under section 305(b) of this Act.".

(b) Section 205(e) of the Clean Water Act is amended by striking "and 1981" each place it occurs and inserting in lieu thereof "1981, 1982, 1983, 1984, and 1985".

Sec. 13. Section 205(g) of the Clean Water Act is amended by adding the following new sentence after the first sentence of paragraph (1): "From sums authorized for each fiscal year beginning on or after October 1, 1981, the Administration is authorized to reserve from the allotment for each State for each such fiscal year an amount not to exceed 1 per centum of the sum of the unexpended obligations and the unobligated allotment available to such State as of the first day of such fiscal year, or $400,000, whichever amount is the greater.".

Sec. 14. Section 205(g) of the Clean Water Act is amended by adding the following new paragraph:

"(3) The Administrator is authorized to reserve for each State each fiscal year an additional one-half of 1 per centum of the sum of the unexpended obligations and the unobligated allotment available to such State as of the first day of such fiscal year, or $100,000 whichever amount is greater, for the purpose of (A) making water quality management decisions as to what publicly owned treatment works should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and (B) implementing section 303(e) of this Act. The State is authorized to make available funds under this paragraph to multijurisdictional agencies or local governments which the State determines have the necessary technical expertise to assist in performing the tasks under this paragraph.".

Sec. 15. Section 205(i) of the Clean Water Act is amended by—

(a) striking "and September 30, 1981," in the first sentence and inserting in lieu thereof "September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985,";

(b) inserting before "a total of" in the second sentence the phrase "not less than";

(c) inserting after "September 30, 1981," in the second sentence the phrase "and 4 per centum for each fiscal year beginning after September 30, 1981,";

(d) striking "subsection (a) of" each place it occurs; and

(e) striking "from 75 per centum to 85 per centum" each place it occurs.

Sec. 16. Section 207 of the Clean Water Act is amended by striking from "September 30, 1981," through the end of the sentence and inserting in lieu thereof "September 30, 1981, not to exceed $5,000,000,000 per fiscal year, and for the fiscal years ending September 30, 1982, September 30, 1983; September 30, 1984, and September 30, 1985, not to exceed $3,400,000,000 per fiscal year.".

Sec. 17. Section 216 of the Clean Water Act is amended to read as follows:

"Sec. 216. Notwithstanding any other provision of this Act, the determination of the priority to be given projects for construction of publicly owned treatment works within each State shall be made by that State, consistent with this title. Only projects eligible for funding under section 201 of this title, as defined in section 202, shall be included on a State's priority list. A State, in determining the priority to be given a project, shall give highest priority to projects which demonstrate that significant public health or water quality benefits will be achieved, and in particular to projects having the greatest effect on the improvement of water quality.".

Sec. 18. The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Clean Water Act and, to the extent practicable, the establishment of total maximum daily loads of pollutants pursuant to section 303(d) of the Clean Water Act shall be completed by the date three years after the enactment of the Clean Water Act Amendments of 1981. No grant shall be made under title II of the Clean Water Act after such date until water quality standards are reviewed and revised pursuant to section 303 (c) and total maximum daily loads of pollutants established pursuant to section 303 (d) for the waters affected by the project for which such grant is requested, except where the State has in good faith submitted such revised water quality standards and total maximum daily loads of pollutants and the Administrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt.

Sec. 19. (a) Section 301(i) of the Clean Water Act is amended by striking "July 1, 1983," and inserting in lieu thereof "July 1, 1988,". The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 301(b)(1) (B) or (C) of the Clean Water Act beyond schedules for compliance in effect as of the enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983.

(b) Section 301(b)(2) of the Clean Water Act is amended by striking subparagraph (B).

(c) It is the sense of the Congress that any court with supervision over a consent degree or other court order establishing a deadline, schedule, or timetable for the construction or completion of sewage treatment works take judicial notice of the amendments to the Clean Water Act made by sections 2, 3, 4, 9, 17, and 20 of this Act, the reduced level of authorizations under section 207 of the Clean Water Act, and the extensions of final compliance date possible under the amendment made by subsection (a) of this section, in considering modifications of such deadline, schedule, or timetable.

Sec. 20. Section 304(d) of the Clean Water Act is amended by adding the following new paragraph:

"(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches, trickling filters, and devices to treat waste waters from combined storm and sanitary sewers shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.".

Sec. 21. Section 516 of the Clean Water Act is amended by inserting a new paragraph (f):

"(f)(1) The Administrator, in cooperation with the States, shall submit to the Congress a report (A) identifying those publicly owned treatment works needed to comply with sections 301(b)(1) (B) or (C), 201(g)(2)(A), and 201(g)(5) of this Act and with water quality standards established pursuant to section 303 of this Act, and (B) taking into account all actions of the Administrator pursuant to section 301(h) of this Act and amendments to title II of this Act made by the Clean Water Act Amendments of 1980 and of 1981, estimating the total cost and the amount of Federal funds necessary for the construction of such publicly owned treatment facilities.

"(2) The report required by this subsection shall be submitted to the Congress not later than eighteen months after the enactment of the Clean Water Act Amendments of 1981.".

SEC. 22. Section 116(b) of the Clean Water Act is amended by striking "(a)" and inserting in lieu thereof "(c)" each place it occurs.

SEC. 23. (a) Section 511 of the Clean Water Act is amended by adding a new subsection (e):

"(e) Nothing in this Act shall be construed, interpreted or otherwise deemed to displace, restrict, limit, affect, or modify in any way the obligations or liabilities of any person, or the right to seek abatement or damages, under other Federal or State law, including common law.".

(b) The amendment to the Clean Water Act made by subsection (a) of this section shall not be the basis for reopening any judicial proceeding finally adjudicated prior to the date of enactment of this section.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## FEDERAL WATER POLLUTION CONTROL ACT OF 1981

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 350, H.R. 4503.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4503) to amend the Federal Water Pollution Control Act to authorize funds for fiscal year 1982, and for other purposes.

Without objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I move that all after the enacting clause be stricken and the text of S. 1716 as agreed to by the Senate be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. BOSCHWITZ) appointed Mr. STAFFORD, Mr. CHAFEE, Mr. DOMENICI, Mr. GORTON, Mr. RANDOLPH, Mr. MITCHELL, and Mr. MOYNIHAN conferees on the part of the Senate.

Mr. BAKER. Mr. President, I ask unanimous consent that the action on S. 1716 be vitiated and that the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank Senators for permitting me to do that.

**Calendar No. 296**

97TH CONGRESS } SENATE { REPORT
*1st Session* } { No. 97-204

# CLEAN WATER ACT AMENDMENTS OF 1981

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OCTOBER 7, 1981.—Ordered to be printed

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Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

# REPORT

[To accompany S. 1716]

The Committee on Environment and Public Works, reports an original bill (S. 1716), to amend title II of the Clean Water Act, and for other purposes and recommends that the bill do pass.

## GENERAL STATEMENT

In 1970, the Congress began an extensive evaluation of the effort to provide Federal assistance and policy guidance to clean up the Nation's waters. The review process culminated in enactment of Public Law 92–500, the Federal Water Pollution Control Act Amendments of 1972. That legislation completely rewrote existing water pollution control laws and represented a major change in pollution control laws and policies at both the State and Federal levels.

Interim requirements and statutory deadlines were established for municipal and industrial pollution sources. These included a 1977 deadline for providing municipal sources with secondary treatment of waste and a mid-1983 deadline for application of best practicable waste treatment technology by municipalities. The Congress expected that the greatly increased Federal role in the program, as well as the commitment of greater Federal financial resources, would make achievement of the interim requirements by municipalities a reality.

In 1977, the Congress noted that the program was not working as expected for a number of reasons. Among the reasons were: the impoundment of Federal funds and erratic funding patterns; a failure to address existing waste treatment needs; and a failure to utilize the large infusion of Federal funds to move toward reclamation and reuse of wastewater effluents. For these reasons, the Congress amended the Act in 1977 to extend the secondary treatment deadline, to provide new incentives to address wastewater problems with innovative or alternative treatment technologies, and to increase the emphasis on a State role in managing the program. In 1980, the Congress once again amended the Act by extending authorizations and providing for prefinancing of wastewater treatment facilities. Notwithstanding the 1977 and 1980 amendments, the 1972 Act remains a milestone in environmental law. The Congress, clearly dissatisfied with previous efforts to clean the Nation's waters, departed from historical approaches and boldly drafted a new national effort to end the continuing degradation of the Nation's waters.

The 1981 amendments only address the municipal program. That program, to provide funding to control pollution from municipal sources, raised expectations to an unrealistically high level in the early 1970's. It has come under increasing criticism of late because many of these expectations are yet to be fulfilled. Some have even gone so far as to call the program a failure. This criticism is unfair and invalid.

The municipal wastewater treatment program was designed in 1972 to deal with water pollution problems that existed at the time. It was not designed as a public works program nor as an adjunct to economic development programs. Certainly, it was expected that benefits beyond those to the environment would occur but the focus was to be on the environment and water quality. As more than one witness stated during the 1981 hearings, the clean-up effort has suffered from the public's inability to discern whether the waste water treatment program is a public works program or an environmental program.

Many of the program's critics fail to appreciate the collossal magnitude of the undertaking. Between enactment of Public Law 92–500 and April 30, 1981, more than 2,600 facilities had been completed. Federal grants for these facilities totaled $3.7 billion. The total Federal investment since 1972 has been $30 billion. The bulk of these funds are invested in some 11,500 projects which are currently proceeding to completion. Only the Interstate Highway System represents a larger Federal initiative.

Notwithstanding the statistics about completed projects and Federal expenditures, the only true assessment of the program's success is the degree to which we have attained cleaner waters. Although only 2,600 of the planned 19,000 municipal treatment facilities are on line, the impact of the program on water quality is already apparent.

In 1980, in terms of actual pollution control as measured by traditional indicators, the pollutants removed from our Nation's waters consisted of 13,600 tons per day of biochemical oxygen demand (BOD) and 15,800 tons per day of total suspended solids (TSS). This is a 65 percent increase in BOD and TSS removal over 1973 figures. The projected pollutant removal in the year 2000 is 28,800 tons per day of BOD, and 30,400 tons per day of TSS. This will be a 101 percent increase in BOD and TSS reduction over 1980 figures. Treatment facility efficiencies, along with increased control of industrial discharges, have made clear-cut improvements in water quality.

States are reporting on their progress: Since 1972, Massachusetts has realized a 30 percent water quality improvement in major river basins; since 1967, Connecticut has improved 25 percent of its streams to levels that meet the 1983 goals of the Act; Nebraska's surface water quality improved in 17 percent of State-wide samples between 1973 and 1977; in Alabama, there was a 21 percent increase in the number of monitoring stations meeting current water quality objectives between 1975 and 1976; and in Pennsylvania, between 1972 and 1976, water quality improved in 669 miles of streams.

Measures of plant performance indicate that there has been a dramatic improvement during the 1975–1980 period. The percentage of treatment plants meeting or exceeding secondary standards on an annual basis has increased from 40 percent in 1975 to more than 75 percent in 1980. A high level of performance is also indicated by a survey of 161 plants conducted by the State of California which indicated that nearly 85 percent of the plants were operating satisfactorily and only eight percent had major problems. A study of 118 major plants that have been constructed with Public Law 92–500 funds in EPA Region IX found that 85 percent of the plants are meeting National Pollutant Discharge Elimination System (NPDES) permit limitations.

In 1981, new challenges confront the effort to clean up the Nation's waters. One problem in particular, the Nation's fiscal situation, makes changes in the Act necessary. The basic goals of the Act have not been changed. They are found to be valid and carry with them strong public support. However, because of the present economic situation, the time necessary to achieve the goals will be extended by enactment of these amendments.

The President requested no funds for the municipal waste-water treatment construction grant program for fiscal year 1982 until reforms are enacted. On April 7, he sent his recommendations to the Congress and asked for quick action.

These reforms were introduced in the Senate shortly thereafter as S. 975. Subsequently, several Committee Members introduced their own set of reforms to the program as S. 1274. Both pieces of legislation and others before the Committee were considered during seven days of hearings with 71 witnesses.

The most recent Needs Survey, a biennial review conducted by the Environmental Protection Agency (EPA) to determine the needed investment in waste water treatment facilities to achieve the water quality goals of the Act, reported a national total need of $120 billion, of which the Federal share would be $90 billion. The reforms requested by the Administration would lower that Federal budgetary exposure to approximately $24 billion. These reforms focused on meeting backlog needs, limiting eligible categories of works, and no longer funding reserve capacity. During its deliberations the Committee carefully reviewed a variety of ways to limit Federal exposure. While not all of the recommendations made to the Committee were adopted, the reported legislation does decrease the Federal exposure to less than $24 billion through a variety of methods which are described elsewhere in this report.

The hearings, like the pending legislation, focused on restructuring the municipal wastewater treatment program in a manner that will continue to accomplish the tasks for which it was created, but at a considerably lower Federal funding level. Two major themes were continually addressed by the witnesses: (1) the need to focus fewer Federal dollars on the most urgent treatment needs, and (2) the need for funding stability.

The members of this Committee, the Administration, and the majority of the witnesses who came before the Committee agree that the time has come to provide priority funding to those parts of the program which provide the greatest water quality benefit. The Committee bill reflects this principle. In the future, only treatment facilities and the necessary interceptor sewers associated with those plants will be eligible for Federal assistance.

In his recommendations to the Congress, the President proposed that the control and treatment of combined sewer overflows (CSO's) no longer be eligible for Federal assistance. This was determined by the Committee Members to be inconsistent with the goal of directing reduced dollars to where they will provide the most water quality benefits.

The impact of CSO's on water quality and public health is significant. The effects of untreated combined sewer overflows include bacteria contamination and severe depletion of dissolved oxygen. The most readily identifiable problem associated with combined sewer overflows is the contamination of swimming and shellfishing areas which can result in permanent or temporary closings. Such closings may have severe economic consequences in addition to water quality and public health implications. In areas where swimming or shellfishing is impaired by both CSO's and other point sources, CSO controls to reduce bacteria may be needed to achieve acceptable levels regardless of the treatment that dry weather flows receive.

In terms of both dollars and water quality, CSO's represent a large national need. Combined sewers serve 42.4 million people with almost 80 percent of those in urbanized areas. Over 100 urbanized areas are served by combined sewers and 80 of these have needs greater than $50 million each. Until these problems are solved, our investment in treatment works, especially in urbanized areas, will not pay the expected dividends. Major urban plants will continue to be overloaded, inefficient, and significant pollution sources despite best efforts to design and operate them properly. The reported needs for CSO's nationwide was most recently estimated to be in excess of $35 billion. Although this figure is only an estimate, it is clear that the resources will never be available to correct this problem with Federal dollars. However, because of the overwhelming need to address this problem, the Committee bill includes a program that would provide, on an annual basis, a small sum of money to be used to help address the needs for CSO's.

As noted previously, with the reforms contained in the Committee bill, the Federal share of municipal wastewater treatment costs will be $24 billion in 1981 dollars. It is important to note, however, that many needed projects are currently taking from seven to nine years to complete and that the continuing cost of inflation is not taken into account by these cost estimates. Since 1970, nonresidential construction costs have increased to an average rate of 9.8 percent annually. If the 1980 needs survey is compared to the previous survey that was completed in 1978, it is found that inflation accounted for an additional $25 billion of wastewater treatment needs. Clearly the program needs to be stabilized so that State and local governments can plan how to best cope with inflation and yet continue to construct needed facilities. If inflation is not controlled, the level of funding contemplated in this legislation will make it difficult to reduce backlog needs.

For all of these reasons, various authorization periods were considered for the 1981 amendments. It was decided that a multiyear authorization of four years was the most appropriate. Anything less would leave State and local program participants uncertain over the future of the program and might undermine the incentives that are necessary to keep the planning process moving forward. On the other hand, a longer authorization period would remove the program from effective periodic review by this Committee.

The Committee also recommends an annual authorization level of $2.4 billion for the construction grants program. It is generally recognized that this level of funding is necessary for budgetary reasons. It is expected that this funding level will be recommended in the budget by the Administration in each of the next four fiscal years. Although $2.4 billion is a lesser amount than the program has received in recent years, it will satisfy program needs if it is fully funded and recissions and deferrals are not forthcoming. With the reforms embodied in the 1981 amendments, it is expected that full funding will yield significant environmental benefits and is consistent with the Administration's economic recovery program.

A major reform worth noting prior to the detailed discussion of the legislation is the gradual reduction of the Federal share in the construction of facilities from 75 percent ultimately to 55 percent. Time and again it was brought to the attention of Committee that, while the large Federal share was a necessary incentive to State and local governments to participate in the program, the time has come to reduce that level of participation. It is expected that by gradually reducing the Federal share a higher priority will be given to the most serious pollution problems, a more realistic assessment of needs will occur, and greater emphasis will be placed on cooperative waste treatment.

Although the Committee bill makes several other significant changes in the municipal wastewater program, many other recommended changes were not adopted. The reason is that the impacts of the 1977 amendments are still occurring. They were not enacted until the final days of the 96th Congress. In some instances the regulations required to implement them were not promulgated for another year and a half. As a result, and contrary to congressional intent, the 1977 amendments significantly slowed the momentum of the program.

It is intended that the 1981 amendments will not slow the program down. On the contrary, enactment of these amendments will remove the municipal program from the roller coaster pattern it has been following in recent years. The end result will be the completion of needed wastewater treatment facilities in a timely manner. The need for the municipal wastewater treatment construction grants program and the benefits derived from it have been well-documented. It should continue to proceed toward accomplishing the goals for which it was created.

## Section-by-Section Analysis

### SECTION 2.—REIMBURSEMENT FOR PLANNING AND DESIGN

Section 2 amends section 201 of the Clean Water Act by providing for Federal reimbursement to grantees for the costs of planning (step 1) and design (step 2) of wastewater treatment facilities only after awards for actual construction (step 3) have been approved, rather than in advance as is currently authorized. This requirement will take effect on October 1, 1981.

There are two purposes for this change in the law. First, elimination of Federal funding for planning and design of projects which are never constructed will be a considerable savings to the Federal government. Secondly, the red tape and the delays encountered in the current progression from step to step in the construction grant program have been a burden, both to the Environmental Protection Agency and to communities seeking assistance under the Act.

During Subcommittee hearings, a number of witnesses pointed out that this provision would impose a burden on communities unable to advance the necessary funds for planning and design of projects, particularly smaller communities.

In response to this concern, paragraph 2 of the new subsection authorizes States to establish a revolving fund from not more than 10 percent of their annual construction grant funds allotment to be used to advance planning and design money to potential grant applicants who would otherwise be unable to perform such work.

The Administrator of the Environmental Protection Agency is required to determine the average cost of such planning and design based on the total projects in the general program experience. Planning and design costs usually average between seven and ten percent of total project costs. This eliminates the need for a determination of actual costs on a case-by-case basis. The cost associated with infiltration-inflow analysis and examination of the need for sewer rehabilitation will be eligible for reimbursement.

If a construction grant is awarded following such an advance to a grantee, the Administrator shall subtract the estimated cost of planning and design from the grant to transfer to the State for replenishment of the revolving fund. In the event no construction grant is made, the State is authorized to seek repayment from the applicant on such terms and conditions as that State determines.

While the Committee anticipated that the revolving fund established under this section would be used primarily for the benefit of smaller communities, larger communities unable to raise planning and design funds are not precluded from participation. Projects in any community which are on the priority lists drawn up by States under section 216 of the Act as amended by this legislation are eligible. Such projects must be projected to achieve the highest possible degree of public health or water quality benefits, and they must be targeted to receive funding within four years at current funding levels. The ultimate decision for selection of projects to receive planning money from the revolving fund is with the individual States, provided the projects selected meet these criteria.

As approved, this provision will achieve a savings to the Federal Government and eliminate redtape and delay, at the same time permitting a mechanism whereby communities otherwise unable to advance funds for planning and design will be able to perform such work. The Committee emphasizes that this section will not affect the combined funding for smaller communities provided for in section 203(a) of the Act and expanded in section 8 of this legislation.

### SECTION 3.—REDUCTION OF THE FEDERAL SHARE

Section 3 provides for the gradual reduction of the Federal share of wastewater treatment facilities from 75 percent through fiscal year 1981 to 65 percent through fiscal year 1984 and 55 percent thereafter. It will not affect grants which had approved step 2 grants prior to September 30, 1981. Municipalities which had voter approved bonds prior to July 1, 1981, and which receive a construction grant prior to July 1, 1985, shall receive a 75 percent grant.

During Subcommittee hearings strong evidence was presented that the large Federal share had been responsible in some instances for discouraging the most cost-effective solutions to waste treatment problems. It is expected that by gradually decreasing the Federal share, projects which are in the process of developing detailed plans and specification will not be affected by the reduced share, but communities which have not yet begun this phase of project development will seek the most cost effective solution to their wastewater treatment problems and will enter into cooperative effort with other communities where possible. As the Federal share is reduced it is expected that a more accurate portrayal of needs will occur.

In the situation where voters have approved bonds dedicated to financing the local portion of a wastewater treatment construction program prior to July 1, 1981, the Committee determined that it would be an undue hardship to force communities to return to the voters for additional funding capacity. For that reason it was determined that any facility which meets the criteria stated previously and which proceeds to construction prior to July 1, 1985, shall receive 75 percent of the cost of a facility from the Federal Government.

The city of Philadelphia entered into an agreement to construct necessary treatment facility and to cease ocean dumping of sludge. Because that agreement does not reference steps in phases and Philadelphia is currently constructing the agreed upon facilities, language was included to assure that it receives the full Federal share as it is entitled to do.

### SECTION 4.—ELIGIBILITY LIMITATIONS

This section amends section 202(a)(1) of the Clean Water Act to place a limitation on previously eligible categories of waste treatment facilities which may receive Federal assistance in the future. Henceforth, the eligible categories will be secondary treatment, more stringent than secondary treatment, and new interceptors and appurtenances. These correspond to categories I, II, and IVb of the Needs Survey updated every two years by the Environmental Protection Agency.

The Committee bill thus eliminates continued general Federal funding of categories such as new collection systems, replacement and rehabilitation of sewers, combined sewer overflow systems, and correction of infiltration-inflow problems.

The purpose of this limitation is simply to focus available Federal funds on projects providing the highest possible treatment of water quality problems. In other words, the greatest reduction of actual pollution discharge will be obtained for every Federal dollar invested.

Treatment facilities and interceptors promise the highest return in this area.

New collector sewers (category IVa) have been generally eliminated (see section 7). The Committee believes that continued Federal subsidy of these facilities will contribute to future growth—which is not the purpose of the construction grant program (see section 9). According to the most recent EPA Needs Survey, new collector sewer needs represent 15 percent of the total needs for all categories. However, in certain instances collection systems are the most efficient method of handling sewage in order to protect public health and water quality. Replacement and/or rehabilitation (category IIIb) is determined to be essentially operation and maintenance, and thus a non-Federal responsibility.

Combined sewer overflows (category V) represent 31 percent of total needs. This category presented a very difficult area with which to deal. Combined sewer overflows are a serious problem, particularly in older eastern cities. Systems constructed 80 to 100 years ago, systems which are the principal means of controlling wastewater and stormwater runoff in high population areas, are inadequate to deal with current demands. The Committee provided for Federal assistance for such projects through other approaches. A detailed discussion of these provisions will be found in sections 7 and 20.

According to the 1980 EPA Needs Survey estimates, elimination of categories IIIa, IIIb, IVa, and V from Federal assistance under the construction grant program will result in a savings of over $64 billion, or 53.5 percent of the $119.9 billion required to meet all categories of needs.

## SECTIONS 5 AND 6.—FUNDING AND EXTENSION OF INNOVATIVE AND ALTERNATIVE SYSTEMS

Section 5 amends section 202(a)(2) of the Clean Water Act to provide that municipal treatment works utilizing innovative or alternative treatment processes shall be funded at a rate 20 percent more than conventional treatment processes, but in no event greater than 85 percent of the cost of construction. Section 6 removes the statutory deadline for utilization of these practices for Federal funding under the construction grant program.

The 1977 amendments to the Clean Water Act amended section 202 (a) by authorizing a Federal share of 85 percent, rather than 75 percent, for projects utilizing innovative or alternative treatment technologies. These systems as a general rule have lower capital and energy requirements than conventional facilities. The Committee hoped that utilization of this funding advantage would be a means of reducing outlays which would have been targeted toward more expensive treatment.

The purpose of this provision was to encourage the design and construction of more efficient municipal treatment technology by advocating a departure from the traditional engineering and design practices. Implicit in such a departure would be a willingness to accept a greater degree of risk in order to achieve a greater potential for a significant advancement in the state of the art, evidenced by lower costs, greater reliability, or other similar design objectives.

To alleviate the risk that the design engineer and the grantee would take in choosing an innovative or alternative system, section 202(a) of the Act was further amended in 1977 to provide that the Federal Government would pay 100 percent of the costs of modifying or replacing any innovative or alternative facility that did not meet design performance standards at reasonable operation and maintenance costs.

Despite the incentives provided in the 1977 amendments the innovative and alternative systems program has been under-utilized. It is too soon after passage of those amendments to be discouraged. A new industry is developing and shows greater promise for the future. Although Federal monetary assistance to the construction grant program as a whole will be less in the future, and although the Federal share in this program will be decreased, the Committee feels it important to continue the incentives for innovative and alternative systems. This is especially true in water scarce regions of the country. Section 5 therefore, continues to fund such activities at a maximum of 85 percent, and section 6 removes the statutory deadline of September 30, 1981, on these activities, leaving the program open-ended. The innovative and alternative program is further addressed in section 15 of this legislation.

### SECTION 7.—COMBINED SEWER OVERFLOWS AND COLLECTOR SEWERS

Section 7 of the bill amends section 202(a) of the Clean Water Act. Although collector sewers have been eliminated from the categories generally eligible for Federal assistance under this legislation (section 4), the Committee recognizes that such systems are often necessary in many smaller communities. Many of these communities do not have the financial capability to finance the construction of these systems. Section 7 was amended by the full Committee to permit the use of construction grant funds for the construction of collector sewers in existing communities of less than 3,500 population for a limited period of time.

This authority only applies to States requesting such assistance in the course of fiscal year 1982. Funds to be used for this purpose must be obligated prior to October 1, 1982. Collector systems must be funded from the total allocation of the pertinent States under section 205 of the Act. The amendment further limits funding for collector sewers to circumstances in which the public health is threatened from existing discharges into ground or surface water. The project must be of sufficient concern to be high on the State's priority list under section 216. The applicant must convincingly demonstrate that collector sewers and central treatment are preferable to other systems because of technical or physical limitations in the area and that it is the most cost-effective alternative. These conditions assure that a collector system will be constructed to serve existing needs and not future growth. As under current law, an existing community is one in existence since 1972.

Under the same conditions, and to assure program continuity, certain larger existing communities which have received grants for collector sewer construction prior to October 1, 1981, and meet the previously mentioned criteria may continue to receive Federal funding in order to complete that system.

An example is the South Valley section near Albuquerque, N. Mex., which has been awarded a construction grant for a portion of its collection system, and would suffer extreme hardship if such work was now made ineligible for Federal funding.

The problem of correcting pollution from combined sewer overflows received a significant amount of attention during Subcommittee hearings. Compelling evidence was presented that total elimination of Federal assistance to correct this problem was unwise. Obviously the cost of a Federal program to separate storm sewers is prohibitive given the underlying economic assumption associated with this legislation. Regardless, the problem of pollution from combined sewers remains significant. With the Administration's desire to focus the Federal assistance portion of the Clean Water Act on treatment, a determination was made that eliminating CSO controls entirely was not a responsible approach to pollution control. Two courses of action were agreed upon.

Section 202(a) is also amended to provide in paragraph (7)(A) that a Governor may use a portion of his allotment for treatment of combined sewer overflows upon demonstrating to the Administrator that the water quality goals of the Act will not be achieved without such treatment. The demonstration shall at a minimum prove that significant usage of the water for shellfishing and swimming will not be possible without correction of combined sewer overflows.

Paragraph (7)(B) provides that the Administrator, upon the demonstration of need by the Governor of a State, may fund the necessary facilities to correct combined sewer overflows where the receiving waters will not be improved by other methods of wastewater treatment. It is restricted to those facilities discharging into bays and estuaries. It was determined that certain marine bays and estuaries have such significant regional and national economic and recreational value that a special program should be established to address their CSO correction needs. In testimony before the Committee, an Administration witness noted that because of certain geographical situations, many marine bays and estuaries will not achieve the minimum water quality goals of the Act solely by treatment of dry weather flows. This is particularly true of those marine bays and estuaries adjacent to major urban complexes. San Francisco Bay, Naragansett Bay, Puget Sound, and Boston Harbor are examples of this situation.

In order to adequately address this problem, a special program was created.

The Administrator is authorized to utilize $200 million annually to correct combined sewer overflows into marine bays and estuaries such as those previously mentioned. The authorization is not effective until fiscal year 1983. These funds do not represent anywhere near the total funds necessary to correct the total needs in the area. It is expected that these funds will be used to further advance methods of controlling combined sewer overflows. The minimum water quality demonstration for paragraph 7(B) is the same as 7(A).

### SECTION 8.—COMBINED PLANNING AND CONSTRUCTION FOR SMALL COMMUNITY PROJECTS

Section 203(a) of the Clean Water Act provides that detailed planning and construction (Steps 2 and 3) of municipal treatment works estimated to cost up to $4 million in communities of 25,000 population or less can, at the discretion of the Administrator of the Environmental Protection Agency, be awarded a single grant for the combined Federal share of the cost of such planning and construction. In States having unusually high construction costs, such as Alaska and Hawaii, the combined grant limitation may be increased to $5 million.

This section provides limited relief from the red tape of three different approval steps for smaller projects and communities by allowing, after EPA approval of a Step 1 grant, a combined Steps 2 and 3 grant.

The reported bill, in recognition of the rising costs of construction, raises the estimated cost limitation of such small projects from $4 million to $8 million and eliminates the $5 million limitation for projects in high construction cost areas. This program is not affected by the limitations on Federal funding of steps 1 and 2 in section 2 of this legislation.

### SECTION 9.—FEDERAL FUNDING FOR RESERVE AND INDUSTRIAL CAPACITY

Section 204(a)(5) of the Clean Water Act is amended by this section to preclude the use of Federal construction grant funds for the construction of treatment work facilities in excess of current population or backlog needs except in limited instances.

This amendment does not preclude Federal support for the planning and design of that part of a municipal treatment plant intended for serving future growth. Such costs would be reimbursed when Step 3 (construction) is implemented. But construction costs for that portion of a project must be funded by the States and localities.

As presented to the Full Committee the legislation approved by the Subcommittee would have eliminated Federal funding of reserve capacity upon enactment. During Full Committee consideration an amendment was discussed which would have allowed the system of funding reserve capacity in treatment works to continue. Such an amendment would have been contrary to the reforms sought by both the President and the Subcommittee.

On the other hand, it was agreed that some communities would be adversely affected by this amendment through no fault of their own. For that reason a rather limited extension of funding for reserve capacity was approved.

Projects which have received approval to proceed with the engineering and design of a facility before September 30, 1981, and one segment of which receives a construction grant prior to October 1, 1983, shall receive the full Federal share for reserve capacity contemplated in the design phase and approved by the Administrator. A project shall receive Federal assistance for reserve capacity even if the project receives a phased or segmented construction grant prior to October 1, 1983, provided that the funded phase is for a legitimate portion of the treatment works and not simply an effort to qualify for this provision.

The Committee views this amendment as very narrow in scope. It is expected that a limited number of facilities like Albuquerque, N. Mex. will qualify for this and the amendment should not appreciably add to the cost of the legislation. The most important issue is that funding of reserve capacity in new projects will cease after fiscal year 1983.

Section 9 also amends subsection 201(k) of the Act to provide that no step 3 construction grant may be made to treat, store, or convey industrial wastewater in excess of existing flows from industrial users. The Committee intends that existing industrial flows be those load conditions existing as of 1980. No capacity to accommodate anticipated or unplanned future industrial growth shall be eligible for a grant. The act presently makes the treatment of all industrial flows greater than 50,000 gallons per day ineligible for a grant after November 15, 1981, except where a project has received a step 2 design grant by March 15, 1980.

The Committee considered proposals to repeal section 201(k) entirely. However, this is inconsistent with the other policy objectives of this bill; namely, reducing eligibilities for certain construction categories and limiting the grant program to 1980 backlog population needs in order to focus scarce Federal funds on projects with the highest water quality benefits.

Instead, the Committee elected to make the cost of treating industrial process flows eligible for grant assistance, provided that the eligible capacity is limited to 1980 existing flows from industrial users, as determined by the Administrator.

In general, existing industrial flows should take into account existing loadings of BOD, total suspended solids (and other pollutants, if included in a discharge or pretreatment permit) and should represent the average of daily loads during the workdays in the maximum production period in 1980 for each industrial user.

For the distinction between existing industrial flows and future industrial needs to have the intended practical effects on the size and cost of federally aided treatment works, actual measurements of industrial flows must be used. Industrial flows should not be estimated on the basis of engineering curves, but on actual measurements for individual dischargers. In the case of existing facilities, historical treatment plant influent figures may be used where the Administrator finds they accurately represent the load conditions existing in 1980.

The "grandfather clause" exempting projects with step 2 design grants awarded before May 15, 1980, from the ambit of section 201(k) is not changed by this section.

## SECTION 10.—TWO BRAND NAME OR EQUAL PROVISION

This section amends section 204(a)(6) of existing law to strike the requirement that if a bid specification prepared by a sewage treatment plant grantee includes a specific brand name item, it must include a second brand name, followed by the words "or equal". This language is replaced by a requirement for "one brand name or equal" in situations where it is impractical or uneconomical to make a clear and accurate description of the technical requirements.

The requirement imposed by section 204(a)(6) of existing law is unique in Federal procurement programs. The "two brand name or equal" stipulation has caused unnecessary delay. For instance, grantees and their engineers desiring to procure equipment having physical or performance characteristics which are either unique or substantially better than others, are unable to procure that equipment because no other similar equipment is available. Other would-be suppliers insist that if the grantee does not name a second source of the particular product, the specification is in violation of the Clean Water Act. In order to prevent a bid protest, the grantee is then forced to relax the specifications in order to allow several sources to be named, often resulting in the acquisition of equipment which is not of optimum quality. The engineer's control over equipment selection, vital to proper facility design and operation, is thus diluted and undercut.

This amendment places reliance upon standard Federal procurement principles for equipment selection. The amendment conforms procurement practices under the Clean Water Act to those outlined in Attachment O to OMB Circular A-102, which requires the listing of "or equal" after the designation of one brand. The Committee believes that this change will restore control and responsibility to the engineer in equipment selection.

### SECTION 11.—ACCOUNTABILITY

The bill amends section 204(a) of the Act to require that the prime consultant to a grantee remain on the site for one year following startup to certify to the Environmental Protection Agency and the appropriate grantee agency that the treatment works is in compliance with its permit. It is not intended to supplant or replace any more stringent State or local requirements, or preclude any grantee from entering into a turn key contract with a contractor or to require greater guarantees.

Recently various investigations into the construction grants program have demonstrated that some facilities do not meet the effluent discharge levels for which they were designed. Regardless of the number of facilities in this category, the hearings clearly demonstrated a need for some mechanism to assist grantees in bringing plants on line in a manner that allows the opportunity to test the plants' performance under a variety of conditions. The purpose of section 204(c) is to allow the main partners responsible for a treatment works to work cooperatively in making sure that it is meeting its discharge permits. This activity will be grant eligible.

Ths section is not expected to result in increased cost for facilities. It is expected that the additional startup time will assist in the facility reaching compliance levels. Additionally it will allow time to train plant operators on how the facility should be managed.

### SECTION 12.—ALLOTMENT

This section amends section 205 of the Act. During its deliberations the Committee considered several different allotment formulas. The reform package recommended by the Administration included an allotment formula which was based solely on 1980 population and backlog needs in categories I, II, IVb. It did not include a minimum State share. Backlog needs are defined in the facility requirements to meet the need of the 1980 population.

The Committee determined that if this formula was utilized many ongoing State efforts would be disrupted. Therefore it devised a new allotment formula that allotted funds on the basis of 1980 population and backlog needs in categories I, II, and IVb. The Committee also maintained the minimum State share. In order to alleviate disruption of State efforts, a descending hold harmless provision was included in the formula. The hold harmless provision is measured against the formula included in the 1977 amendments to the Act. Any State which under this formula receives less than 90 percent of what it would have received under the old formula is held at 90 percent in 1982, 85 percent in 1983 and 80 percent in 1984 of what it would have received had the old formula been carried forward.

Beginning in 1985 the sums are to be allotted among the States on the basis of the impact of facilities on water quality. Many times during Committee consideration of these amendments concerns were raised about the relationship of the biennial Needs Survey to water quality. The Environmental Protection Agency pointed up the fact that the Needs Survey is only an accounting procedure.

This new method of allotting funds is consistent with several other provisions of the bill, namely sections 2, 4, 7, 18, 20, and 21 and the overall goal of the legislation, to emphasize the relationship between treatment and water quality. This method of allotment, relating facility needs to achieving and maintaining certain levels of water quality, will not go into effect until the Congress has an opportunity to review whether or not sufficient data exists to make the correlation.

### SECTION 13.—SET-ASIDE OF STATE ALLOTMENT

Section 13 amends section 205(g) of the Act, which provides a set-aside of a State's allotment for State administrative purposes. Under current law, the State administration grant is computed as a percentage of the allotment the State would receive if the full authorization were appropriated.

This amendment will require that a State's grant for administration of the program be tied directly to the amount of unexpended obligations made but not actually disbursed, plus unobligated allotment funds available to that State at the beginning of a fiscal year. This reflects the sums the State would be expected to manage and expend during the course of that year. In this way, the amount of money available for administrative purposes will be tied to the anticipated work load of each State.

### SECTION 14.—WATER QUALITY MANAGEMENT DECISIONMAKING

Section 205(g) of the Clean Water Act is expanded by this section to designate an additional one-half of one percentum of a State's unexpended obligations and unobligated allotment, or $100,000, if greater, for water quality management assistance.

This amendment permits a State to use construction grant funds in the same way as the State management assistance grants discussed under the previous section for the purpose of relating treatment works investment decisions to water quality needs. The money may be used either at the State level or through areawide planning agencies.

To date, principally under authority of section 208 of the Clean Water Act, States have worked together with local governments and regional councils in planning and implementing areawide water quality management strategies. The Committee believes that this effort should continue, in spite of the fact that the current Administration has not budgeted funds for the section 208 program for fiscal year 1982. At a State's discretion, the funds provided under this amendment may be used for the water quality management decisions outlined in the section, for implementation of continuous State water quality planning under section 303(e) of the Act, and for continued implementation of water quality management plans already prepared under section 208. These funds can be provided to multijurisdictional agencies which have technical expertise relevant to water quality management decisionmaking.

### SECTION 15.—INNOVATIVE AND ALTERNATIVE SET-ASIDES

This section complements the improvements to the innovative and alternative systems provisions of sections 5 and 6 by amending Section 205(i) of the Clean Water Act to continue the use of a minimum of one-half of one percent of a State's allotted funds for the increased Federal share (that percentage which is over the Federal share for conventional systems). The section also increases from three percent to four percent a State's mandatory set-aside of allocated funds in each fiscal year for innovative and alternative treatment systems.

S. 1274 as introduced required that a State expend a minimum of eight percent of its yearly allocation for innovative and alternative systems. The Administration bill (S. 975), on the other hand, made this set-aside discretionary rather than mandatory at a rate of three percent.

Prior to the 1977 amendments to the Clean Water Act, when the mandatory State set-aside was established, less than two percent of the construction grant budget was employed for innovative and alternative technologies. Today, about twenty percent of this Federal grant money is used for this purpose. The Committee believes that the innovative and alternative program should not only be continued, but should be stimulated. To this end, the higher percentage of Federal funding is continued for the program in section 5. Testimony was received during Committee hearings suggesting that an eight percent mandatory set-aside might be too high. This section, therefore, continues the mandatory set-aside for the program at a minimum rate of four percent rather than the current rate of three percent.

The innovative and alternative program must be strengthened. It is the most promising tool for the encouragement of new low-cost technology for municipalities.

### SECTION 16.—AUTHORIZATIONS

Section 16 amends section 207 of the Clean Water Act by authorizing not to exceed $2.4 billion annually for the construction grant program for fiscal years 1982 through 1985.

Although authorizations for this program have been at a level of $5 billion for fiscal years 1980 through 1982, actual appropriations and expenditures have not approached that figure. Appropriations for fiscal years 1980 and 1981 were approximately $3.4 billion. The June 5, 1981 Recission Act further reduced these amounts to $2.5 billion annually.

The Administration has budgeted no funds for the construction grant program for fiscal year 1982 unless the Congress enacts reforms this year. Should appropriate reforms become law in a timely fashion, the Administration has pledged to support a $2.4 billion authorization for each of the next 4 years.

The amendments to the Clean Water Act contained in this legislation, particularly the limitations on eligibilities and the reduced Federal share, will substantially reduce the funding required for completion of the program. Section 16 therefore authorizes $2.4 billion annually for fiscal years 1982 through 1985.

### SECTION 17.—STATE PRIORITIES

This section amends section 216 of the Clean Water Act to require that State priority lists contain only eligible projects in an order of precedence reflecting signicant public health or water quality benefits: especially projects having the greatest effect on the improvement of water quality.

Under existing law, the States are given primary responsibility for the establishment of their priorities. They prepare an annual list for submission to the Environmental Protection Agency ranking projects in their preferred order of funding. Each State's list, therefore, reflects localized rather than national concerns. In many instances, State priorities mirror political concerns rather than environmental needs.

In order to achieve the primary goal of this legislation—the greatest possible degree of pollution reduction for each Federal dollar expended—section 216, as amended, requires the States to restructure their priority lists to give priority to those projects achieving the most significant benefits in public health and water quality.

### SECTION 18.—REVISION OF WATER QUALITY STANDARDS

The provision amends the act to require the review, revision, and adoption or promulgation of revised or new water quality standards within three years after enactment of the 1981 amendments.

This section was included by the Committee to augment the restructuring of State priority lists in section 216 and to assist in determining allotment formula in section 205.

As mentioned in other places in this Report, the Committee received testimony from several witnesses concerning the relationship of water quality to waste treatment facility investment decisions. For that reason, this section was included to encourage the States to revise, or review, their water quality standards and to establish total maximum daily loads of pollutants per section 303(d) of the Clean Water Act for the water affected by a proposed project.

As S. 1274 was originally introduced this work was to be completed within two years. During hearings it was determined that three years was a more appropriate time for this to be completed.

After three years, no grant will be made unless this effort has been completed and approved by the Administrator. The sole exception to this is the situation of a State acting in good faith and submitting the necessary documentation to the Administrator and not receiving notification of action within 120 days of such submission.

### SECTION 19.—MUNICIPAL COMPLIANCE DEADLINE EXTENSION

The reported bill amends section 301(i) of the Clean Water Act to extend the July 1, 1983, deadline for the uniform achievement of municipal secondary treatment to July 1, 1988.

The 1972 Act originally required municipal plants to comply with effluent limitations based on secondary treatment by 1977. This deadline proved to be difficult, and in many cases impossible to meet, largely because of insufficient Federal funding. The 1977 amendments, therefore, permitted extension of the deadline to municipalities acting in good faith which were unable to meet this requirement. Such extensions were to be in no case later than July 1, 1983.

With the projected shortfall in Federal expenditures, and the reduced Federal share for the construction grant program, it is once more apparent that many communities will be unable to meet the 1983 deadline. The legislation thus extends the deadline to 1988 for communities which cannot meet earlier deadlines because Federal funds are not available. The Committee emphasizes that the same good faith requirements now in existing law are also extended to facilities seeking the new extension.

For the same reasons, this section also amends section 301(b)(2) to remove the 1983 deadline for achievement of best practical waste treatment technology standards for municipalities. No new deadline is substituted.

The Committee is aware that a number of communities are under court orders to comply with certain pollution control deadlines. These communities will not be helped by the further program limitations and reduced funding imposed by this legislation. This provision expresses the sense of the Congress that courts in supervision of court orders for such non-complying municipalities take cognizance of the amendments contained in this legislation in their consideration of modifications to such deadlines.

### SECTION 20.—DEFINITION OF SECONDARY TREATMENT

Section 304(d) of the Clean Water Act is amended by adding a new paragraph permitting the use of biological treatment facilities such as oxidation ponds, lagoons and ditches, trickling filters, and devices to treat waste waters from combined storm and sanitary sewers, as the equivalent of secondary treatment if it can be proven that water quality will not be adversely affected by such methods.

Under authority of existing law, the Administrator of the Environmental Protection Agency has defined the term "secondary treatment" as the removal of 85 percent of biological oxygen demand (BOD) and the attainment of an effluent containing not more than 30 milligrams per liter of suspended solids over a 30 day period. Methods of achieving secondary treatment are also at the discretion of the Administrator.

Certain biological treatment techniques such as oxidation ponds, trickling filters, and devices to treat combined storm and sanitary wastes have proven effective in achieving significant reductions in BOD and TSS. These methods for the most part are cheaper and more energy-efficient than standard methods, and are particularly useful in smaller communities. Yet the Environmental Protection Agency has not sanctioned their use for secondary treatment.

This section therefore permits the use of certain biological treatment facilities to meet the secondary treatment requirement provided that water quality and particularly the objective of the Act is not adversely affected, in spite of the fact that they may not consistently meet 85 percent removal. In developing the guidelines necessary to carry out this provision the Administrator should take into account not only pollutant removal efficiencies, but also differing geographical/climatic conditions which affect treatment plant performance. The Administrator should also address the seasonal and geographical variability of biological treatment plant performance in the regulations issued to carry out this section.

The Committee is also concerned with the water quality impacts of any revision to the secondary treatment definitions. Although water quality impact is not a consideration in defining technology-based regulations, a technology would not be acceptable for any category of dischargers if it is found that the technology is inadequate in terms of necessary water quality protection. This section is not intended to sanction the introduction of raw sewage into the Nation's waterways. The basic water quality test is that found in section 101(a) of the Clean Water Act.

The Committee recognizes that serious water quality problems in marine bays and estuaries can result from wet weather discharges of wastewater from combined storm sanitary sewer systems. Because of this, cost-effective devices to treat and store such discharges may be considered the equivalent of secondary treatment and be eligible for Federal grant assistance. The Administrator should prepare guidance on the types of devices to be considered in the cost effectiveness analysis of combined sewer overflow correction and the performance criteria for such facilities.

During Subcommittee hearings it was brought out that some communities have unsuccessfully sought EPA's assistance in proceeding directly to systems which treat and recycle wastewater for potable supply. The City of San Diego in particular is attempting to meet its water supply needs in this manner. Clearly the goal of P.L. 92-500 is to encourage recycling and reuse of wastewater. In 1977 the Congress reaffirmed this position by including a special incentive program for innovative and alternate wastewater systems. This legislation carries that incentive program forward.

The fact that communities are turning to recycling systems is gratifying. Rather than refusing to provide assistance for such systems EPA should be encouraging more communities to investigate them. For that reason EPA should reconsider its position in this matter. More and more communities will be attempting to meet potable supply needs in this manner. Knowing that EPA will assist them will further encourage this.

### SECTION 21.—REPORT ON REMAINING MUNICIPAL WATER TREATMENT NEEDS

The reported bill supplements section 516 of the Clean Water Act by adding a requirement that the Environmental Protection Agency submit a report to the Congress within eighteen months of enactment of this legislation. The report must identify publicly owned treatment works not yet in compliance with the secondary treatment goals of the Act. It must also contain an assessment of the impact of the 1981 amendments on the cost of completing the Federal construction grant program, and the remaining Federal costs necessary to complete the program.

The construction grant program was initiated in 1972. The end of a decade of implementation of one of the largest Federal-aid programs in our history is approaching. The Congress never expected the program to continue indefinitely. After ten years, the Nation should be in a position to assess the extent of the accomplishment of our municipal water quality goals, and to estimate the remaining costs of compliance. The Nation must expect an end to Federal participation in this area. This is the purpose of the report mandated by section 516(f).

### SECTION 22.—HUDSON RIVER PCB RECLAMATION PROJECT

This is a technical amendment correcting an error in section 116(b) of the Clean Water Act. Funds under this section are those allocated under section 205(c) of the Act, and not section 205(a) as stated. This amendment conforms the language of the Act to the original intent of the Congress.

## HEARINGS

The Subcommittee on Environmental Pollution held seven days of hearings on the municipal waste water treatment construction grants program (six of which were in Washington, one was conducted in Providence, Rhode Island). Over 70 witnesses testified before the Subcommittee at these hearings. In excess of 1,000 pages of testimony and exhibits are included in the hearing record.

The Subcommittee had two mark-up sessions before approving an original bill for full Committee consideration. The full Committee also conducted two mark-up sessions and on September 23, 1981, voted to order the bill reported.

The following bills were pending before the Committee:

S. 789, a bill to defer the effective date of section 201(k) of the Act;

S. 975, a bill to amend the municipal construction grants program:

S. 1274, a bill to amend title II of the Clean Water Act;

S. 1328, a bill to repeal the industrial cost exclusion provision.

The general issues included in these bills were discussed by the Subcommittee and some language has been included in this bill to address the issues raised.

## ROLLCALL VOTES

During the Committee's consideration of this bill, one rollcall vote was taken. The tabulation of that vote is available at the committee's files.

Pursuant to section 133 of the Legislative Reorganization Act of 1970, and the Rules of the Committee on Environment and Public Works, the vote of the Committee to report the bill is announced here. The Committee ordered reported the bill on September 23, 1981, by a vote of 16–0 with Senators Stafford, Baker, Domenici, Chafee, Simpson, Abdnor, Symms, Gorton, Murkowski, Randolph, Bentsen, Burdick, Hart, Moynihan, Mitchell and Baucus voting to report.

## EVALUATION OF REGULATORY IMPACT

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact of the reported bill.

The reported bill does not create new regulatory authority. It has been drafted in such a way as to further minimize regulatory burden on States and local governments. Specifically, provisions limiting the eligible categories that can receive Federal assistance, allowing small treatment systems to qualify on secondary treatment, and reducing the Federal role in the facility design and engineering phase of treatment works construction, should greatly reduce the heavy regulatory burden associated with the program.

## COST OF LEGISLATION

Section 11a of Rule XXVI of the Standing Rules of the Senate requires cost estimates and comparisons of costs to be incurred in carrying out the bill to be published in reports. In accordance with section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office is preparing a report on the costs to be incurred by the Federal Government resulting from the enactment of this bill. Such cost estimates, however, are unavailable at this time. Therefore, inclusion of such cost estimates would be impractical. In the opinion of the committee, it is necessary to dispense with this requirement in order to expedite the business of the Senate. Such cost estimates will be set forth in the Record when they are available.

## CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirement of section 12 of Rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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II

**Calendar No. 296**

97TH CONGRESS
1ST SESSION

# S. 1716

**[Report No. 97–204]**

To amend title II of the Clean Water Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1981

Mr. CHAFEE reported the following original bill; which was read twice and placed on the calendar

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# A BILL

To amend title II of the Clean Water Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Clean Water Act Amendments of 1981".

SEC. 2. Section 201 of the Clean Water Act is amended by adding a new subsection (l):

"(l)(1) After October 1, 1981, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 202(a) of this Act, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.".

"(2)(A) Each State is authorized to use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to establish a revolving fund from which such State may advance to a potential grant applicant under this title the costs of facility planning or the preparation of plans, specifications, and estimates.

"(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant who in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

"(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reserve from such grant the allowance established under paragraph (1) of this subsection and transfer it to the State for replenishment of the revolving fund established under this paragraph. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.".

SEC. 3. (a) Section 202(a)(1) of the Clean Water Act is amended by striking "shall be 75 per centum" and inserting in lieu thereof "and before September 30, 1981, shall be 75 per centum, for any fiscal year beginning after September 30, 1981, and before September 30, 1984, shall be 65 per centum, and for any fiscal year beginning after September 30, 1984, shall be 55 per centum".

(b) The amendment to section 202(a)(1) of the Clean Water Act made by subsection (a) of this section shall apply only to grants other than for projects (1) which received grant approval to prepare construction plans and specifications before September 30, 1981, (2) which are subject to a consent decree or other Federal judicial mandate entered on or before December 31, 1980, and for which grants for construction of one or more segments of such project have been approved prior to September 30, 1981, or (3) which had obtained voter approval for the bond financing of the local share prior to July 1, 1981, and receives a grant for construction costs before July 1, 1985.

SEC. 4. Paragraph (1) of section 202(a) of the Clean Water Act is amended by adding the following new sentence before the last sentence thereof: "Notwithstanding any other provision of this Act, for purposes of this section and section 201(g)(1) of this title, grants for treatment works shall be limited to the following categories of projects: secondary treatment or more stringent treatment, or any cost-effective alternative thereof, and new interceptors and appurtenances.".

SEC. 5. The first sentence of section 202(a)(2) of the Clean Water Act is amended to read as follows: "The amount of any grant made after September 30, 1978, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be a percentage rate of the cost of construction thereof 20 per centum greater than the rate established by paragraph (1) of this subsection or the modified uniform percentage rate in which the Administrator has concurred pursuant to such paragraph, but in no event greater than 85 per centum of the cost of construction thereof.".

SEC. 6. Section 202(a)(4) of the Clean Water Act is amended by striking the words "in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981".

SEC. 7. Section 202(a) of the Clean Water Act is amended by adding new paragraphs as follows:

"(5) Prior to October 1, 1982, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to assist new sewage collection systems in existing communities, which are not otherwise eligible under this subsection, where—

"(A) such systems are proposed for municipalities less than 3,500 in population;

"(B) such systems are necessary to protect the public health from existing discharges into ground or surface water;

"(C) correction of such public health problems in such communities is a major priority for such State; and

"(D) the applicant can demonstrate that a system of collection and central treatment is preferable to individual onsite or cluster treatment units because of physical and technical limitations in the area or because collection and central treatment is the most cost-effective alternative.

"(6) Upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to assist a new sewage collection system serving the population as of 1980 in an existing community, which is not otherwise eligible under this subsection, where—

"(A) a grant for construction of a portion of such collection system has been approved before October 1, 1981;

"(B) such system is necessary to protect the public health from existing discharges into ground or surface water;

"(C) correction of such public health problems in such community is a major priority for such State; and

"(D) the applicant can demonstrate that a system of collection and central treatment is preferable to individual onsite or cluster treatment units because of physical and technical limitations in the area or because collection and central treatment is the most cost-effective alternative.

"(7)(A) Upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

"(B) The Administrator shall have available $200,000,000 per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.".

SEC. 8. Section 203(a) of the Clean Water Act is amended by striking "$4,000,000" and inserting in lieu thereof "$8,000,000". The last sentence of section 203(a) is hereby repealed.

SEC. 9. (a) Section 204(a)(5) of the Clean Water Act is amended to read as follows:

"(5) that the size and capacity of such works relate to the needs to be served by such works, including sufficient reserve capacity, except that no grant, other than for facility planning and the preparation of construction plans and specifications (to the extent provided under section 202(l) of this Act), shall be made under this title to construct that portion of the treatment works providing reserve capacity. This limitation on grants for the construction of reserve capacity shall not apply to grants for projects which received grant approval to prepare construction plans and specifications before September 30, 1981, and for which grants for construction of one or more segments of the treatment works are approved prior to October 1, 1983. The size and capacity of the treatment works eligible for a grant under this title shall be determined by the Administrator based upon the 1980 population statistics as reported by the United States Department of Commerce: *Provided, however,* That the total eligible design flow capacity of a treatment works may include existing industrial flows as determined by the Administrator; and".

(b) Section 201(k) of the Clean Water Act is amended to read as follows:

"(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of industrial users into such treatment works in excess of the existing flows from such industrial users. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.".

SEC. 10. Section 204(a)(6) of the Clean Water Act is amended by striking ", or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'" and by adding at the end thereof the following: "When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.".

SEC. 11. Section 204 of the Clean Water Act is amended by adding the following new subsection:

"(c)(1) A grant for the construction of treatment works under this title shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this title.

"(2) On the date one year after the completion of construction and initial operation of such treatment works, the owner and operator of such treatment works shall certify to the Administrator whether or not such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to section 402 of the Act for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

"(3) Nothing in this section shall be construed to prohibit a grantee under this title from requiring more assurances, guarantees, or indemnity or other contractural requirements from any party to a contract pertaining to a project assisted under this title, than those provided under this subsection.".

SEC. 12. (a) Section 205(c) of the Clean Water Act is amended by inserting "(1)" after "(c)" and by adding the following new paragraph:

"(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, and 1984 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act Amendments of 1981. Sums authorized to be appropriated pursuant to section 207 for the fiscal year 1985 shall be allotted for such year by the Administrator no later than September 30, 1984. Sums authorized for fiscal years 1982, 1983, and 1984 shall be allotted in accordance with the following table:

| States | Fiscal year 1982 | Fiscal year 1983 | Fiscal year 1984 |
|---|---|---|---|
| Alabama | 0.011398 | 0.010764 | 0.010131 |
| Alaska | .006656 | .007044 | .007271 |
| Arizona | .006885 | .006502 | .006120 |
| Arkansas | .006668 | .006298 | .005927 |
| California | .070569 | .066648 | .067392 |
| Colorado | .008154 | .007701 | .007248 |
| Connecticut | .012865 | .013615 | .014055 |
| Delaware | .005000 | .005000 | .005000 |
| District of Columbia | .005000 | .005000 | .005000 |
| Florida | .034051 | .032159 | .030979 |
| Georgia | .017234 | .016277 | .015319 |
| Hawaii | .007297 | .007722 | .007972 |
| Idaho | .005000 | .005000 | .005000 |
| Illinois | .046101 | .043540 | .040978 |
| Indiana | .024566 | .023201 | .021836 |
| Iowa | .013565 | .014355 | .014819 |
| Kansas | .008898 | .009417 | .009721 |
| Kentucky | .012974 | .012253 | .011532 |
| Louisiana | .011205 | .010582 | .009960 |
| Maine | .007493 | .007930 | .008186 |
| Maryland | .024653 | .023283 | .021914 |
| Massachusetts | .036690 | .038827 | .040082 |
| Michigan | .042952 | .045455 | .046924 |
| Minnesota | .017428 | .018443 | .019039 |
| Mississippi | .008573 | .008564 | .008841 |
| Missouri | .029203 | .030904 | .031903 |
| Montana | .005000 | .005000 | .005000 |
| Nebraska | .005000 | .005000 | .005000 |
| Nevada | .005000 | .005000 | .005000 |
| New Hampshire | .010696 | .011319 | .011685 |
| New Jersey | .044016 | .046581 | .480874 |
| New Mexico | .005000 | .005000 | .005000 |
| New York | .111177 | .117655 | .121458 |
| North Carolina | .017581 | .016718 | .017258 |
| North Dakota | .005000 | .005000 | .005000 |
| Ohio | .057383 | .054195 | .051007 |
| Oklahoma | .008235 | .007777 | .007320 |

| States | Fiscal year 1982 | Fiscal year 1983 | Fiscal year 1984 |
|---|---|---|---|
| Oregon | .011515 | .010875 | .010235 |
| Pennsylvania | .038711 | .036560 | .037742 |
| Rhode Island | .007617 | .008060 | .008321 |
| South Carolina | .010443 | .009863 | .009282 |
| South Dakota | .005000 | .005000 | .005000 |
| Tennessee | .013744 | .013894 | .014343 |
| Texas | .038726 | .036575 | .034423 |
| Utah | .005319 | .005629 | .005811 |
| Vermont | .005000 | .005000 | .005000 |
| Virginia | .020496 | .021690 | .022392 |
| Washington | .016484 | .017445 | .018008 |
| West Virginia | .015890 | .015007 | .014124 |
| Wisconsin | .032844 | .034758 | .035881 |
| Wyoming | .005000 | .005000 | .005000 |
| American Samoa | .001118 | .001184 | .001222 |
| Guam | .000661 | .000624 | .000590 |
| Marianas | .000654 | .000692 | .000714 |
| Puerto Rico | .013748 | .014549 | .015019 |
| Pacific Trust Territory | .001236 | .001199 | .001237 |
| Virgin Islands | .000631 | .000668 | .000689 |

Sums authorized for fiscal year 1985 shall be allotted among the States in accordance with the relative effect of eligible publicly owned treatment works on water quality in each State, based on water quality standards and total maximum daily loads of pollutants established under section 303 of this Act and reports of water quality submitted under section 305(b) of this Act.".

(b) Section 205(e) of the Clean Water Act is amended by striking "and 1981" each place it occurs and inserting in lieu thereof "1981, 1982, 1983, 1984, and 1985".

SEC. 13. Section 205(g) of the Clean Water Act is amended by adding the following new sentence after the first sentence of paragraph (1): "From sums authorized for each fiscal year beginning on or after October 1, 1981, the Administrator is authorized to reserve from the allotment for each State for each such fiscal year an amount not to exceed 1 per centum of the sum of the unexpended obligations and the unobligated allotment available to such State as of the first day of such fiscal year, or $400,000, whichever amount is the greater.".

SEC. 14. Section 205(g) of the Clean Water Act is amended by adding the following new paragraph:

"(3) The Administrator is authorized to reserve for each State each fiscal year an additional one-half of 1 per centum of the sum of the unexpended obligations and the unobligated allotment available to such State as of the first day of such fiscal year, or $100,000 whichever amount is greater, for the purpose of (A) making water quality management decisions as to what publicly owned treatment works should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and (B) implementing section 303(e) of this Act. The State is authorized to make available funds under this paragraph to multijurisdictional agencies or local governments which the State determines have the necessary technical expertise to assist in performing the tasks under this paragraph.".

SEC. 15. Section 205(i) of the Clean Water Act is amended by—

(a) striking "and September 30, 1981," in the first sentence and inserting in lieu thereof "September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985,";

(b) inserting before "a total of" in the second sentence the phrase "not less than";

(c) inserting after "September 30, 1981," in the second sentence the phrase "and 4 per centum for each fiscal year beginning after September 30, 1981,";

(d) striking "subsection (a) of" each place it occurs; and

(e) striking "from 75 per centum to 85 per centum" each place it occurs.

SEC. 16. Section 207 of the Clean Water Act is amended by striking from "September 30, 1981," through the end of the sentence and inserting in lieu thereof "September 30, 1981, not to exceed $5,000,000,000 per fiscal year, and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year.".

SEC. 17. Section 216 of the Clean Water Act is amended to read as follows:

"SEC. 216. Notwithstanding any other provision of this Act, the determination of the priority to be given projects for construction of publicly owned treatment works within each State shall be made by that State, consistent with this title. Only projects eligible for funding under section 201 of this title, as defined in section 202, shall be included on a State's priority list. A State, in determining the priority to be given a project, shall give highest priority to projects which demonstrate that significant public health or water quality benefits will be achieved, and in particular to projects having the greatest effect on the improvement of water quality.".

SEC. 18. The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Clean Water Act and, to the extent practicable, the establishment of total maximum daily loads of pollutants pursuant to section 303(d) of the Clean Water Act shall be completed by the date three years after the enactment of the Clean Water Act Amendments of 1981. No grant shall be made under title II of the Clean Water Act after such date until water quality standards are reviewed and revised pursuant to section 303(c) and total maximum daily loads of pollutants established pursuant to section 303(d) for the waters affected by the project for which such grant is requested, except where the State has in good faith submitted such revised water quality standards and total maximum daily loads of pollutants and the Administrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt.

SEC. 19. (a) Section 301(i) of the Clean Water Act is amended by striking "July 1, 1983," and inserting in lieu thereof "July 1, 1988,". The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 301(b)(1) (B) or (C) of the Clean Water Act beyond schedules for compliance in effect as of the enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983.

(b) Section 301(b)(2) of the Clean Water Act is amended by striking subparagraph (B).

(c) It is the sense of the Congress that any court with supervision over a consent degree or other court order establishing a deadline, schedule, or timetable for the construction or completion of sewage treatment works take judicial notice of the amendments to the Clean Water Act made by sections 2, 3, 4, 9, 17, and 20 of this bill, the reduced level of authorizations under section 207 of the Clean Water Act, and the extensions of final compliance date possible under the amendment made by subsection (a) of this section, in considering modifications of such deadline, schedule, or timetable.

SEC. 20. Section 304(d) of the Clean Water Act is amended by adding the following new paragraph:

"(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches, trickling filters, and devices to treat waste waters from combined storm and sanitary sewers shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.".

SEC. 21. Section 516 of the Clean Water Act is amended by inserting a new paragraph (f):

"(f)(1) The Administrator, in cooperation with the States, shall submit to the Congress a report (A) identifying those publicly owned treatment works needed to comply with sections 301(b)(1) (B) or (C), 201(g)(2)(A), and 201(g)(5) of this Act and with water quality standards established pursuant to section 303 of this Act, and (B) taking into account all actions of the Administrator pursuant to section 301(h) of this Act and amendments to title II of this Act made by the Clean Water Act Amendments of 1980 and of 1981, estimating the total cost and the amount of Federal funds necessary for the construction of such publicly owned treatment facilities.

"(2) The report required by this subsection shall be submitted to the Congress not later than eighteen months after the enactment of the Clean Water Act Amendments of 1981.".

SEC. 22. Section 116(b) of the Clean Water Act is amended by striking "(a)" and inserting in lieu thereof "(c)" each place it occurs.

ADMINISTRATION TESTIMONY AT HOUSE HEARINGS, 1981

# THE NEED FOR LEGISLATIVE CHANGES IN THE CONSTRUCTION GRANTS PROGRAM OF THE FEDERAL WATER POLLUTION CONTROL ACT

(97-25)

## HEARINGS

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES

OF THE

COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST SESSION

JULY 21, 22, 23, 28, AND 29, 1981

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# THE NEED FOR LEGISLATIVE CHANGES IN THE CONSTRUCTION GRANTS PROGRAM OF THE FEDERAL WATER POLLUTION CONTROL ACT

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TUESDAY, JULY 21, 1981

House of Representatives,
Subcommittee on Water Resources,
Committee on Public Works and Transportation,
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:12 a.m., in room 2167, Rayburn House Office Building, Hon. Robert A. Roe (chairman of the subcommittee) presiding.

* * * * * * * * *

Mr. Roe. Please proceed.

## TESTIMONY OF ANNE McGILL GORSUCH, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, AND JOHN HERNANDEZ, DEPUTY ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mrs. Gorsuch. Thank you, Mr. Chairman, and thank you, Congressman Hammerschmidt and Congressman Clausen and the other members of the committee.

I have had just a brief opportunity to meet with some of you informally. For the record, I would like to introduce myself formally. I am Anne McGill Gorsuch, newly appointed Administrator of the EPA. Accompanying me here this morning is Dr. John Hernandez, who is our Deputy Administrator.

Dr. Hernandez will address title II of the act and its relationship to water quality improvements, both in terms of understanding the program's development and evaluating what we have done to date. Dr. Hernandez will also focus on the relationship between Federal and State responsibilities, which I know are of critical concern not only to this committee but to the administration as well.

The Federal financial commitment and the ongoing efforts within the agency to assist the States in their evaluation of water quality improvement will also be addressed in his testimony.

As we know, the grants program is currently facing a number of challenges which require our mutual response this year. The most significant of these is the rapid increase in the estimated cleanup costs necessary to meet the requirements of the Clean Water Act.

In just the 4-year period from 1976 to 1980, needs increased by a factor of 25 percent, from $96 billion to $120 billion. This increase occurred notwithstanding the Federal obligations of nearly $18 billion in that same time period. Clearly, the magnitude of these costs is out of proportion to available funds.

Note.--Additional material was supplied by Administration witnesses to the Subcommittee. Some of that material has been omitted from this legislative history and may be found in the record of the hearing.

In addition, recent reports from GAO and EPA's Inspector General, as well as the construction grants programs themselves have identified problems with plant performance, the selection of appropriate technology, and excessive costs. I believe we would agree that these challenges cannot be ignored.

Our efforts must be focused toward getting a greater return for our Federal expenditures. Our administrative and legislative efforts should be geared to meeting the President's economic objectives within the context of budget-related reforms. To accomplish this, we are concerned with simplifying and delegating the construction grants program.

I will begin this morning by first reviewing with you legislative revisions to title II of the Clean Water Act which we feel we can recommend for your consideration to make this program more cost effective.

Second, I will try to outline some of the administrative initiatives already underway within the agency to further increase the efficiency and effectiveness of the construction grants program.

I do not presume to say to you today that we have, in proposing our solutions, found the solutions to all of the issues surrounding the grants program. Rather, we have attempted to address the major challenges facing the program in order to redirect its effort and to strengthen its environmental impact. Some changes are clearly needed now to limit the focus of Federal funding and to keep the program from getting beyond control because of continually increasing costs. We look forward to joining you in a dialog which will produce what I hope, together, we can identify and put into place as urgently needed program reforms.

The Federal share for meeting present estimated needs comes to more than $90 billion. We recognize that we must address the enforceable requirements of the law. But we propose to do this next year in conjunction with you as part of the overall reauthorization of the Clean Water Act.

Our approach will be to focus now on getting control of the budget-related aspects of the program. This year, significant savings can be achieved, we believe, through changes to the eligibility provisions for grant funding. This can be approached in two ways. First, by limiting eligibility to treatment-related needs. In this way, the Federal share can be reduced to $42 billion. Second, by focusing on existing pollution problems and eliminating Federal funding for future growth, the Federal price tag can be pared down further to approximately $23 billion—the amount of our proposal.

This budget-related reform legislation is vital, I believe, to meeting our goals of cost-effectively targeting the program. At the same time, it is intended to simplify Federal requirements and improve efforts toward State delegation and, in the process, move actual decisionmaking to the level of Government closest to the problem. To accomplish this, our program reform proposals have two primary objectives: The construction of cost-effective projects geared to environmental benefits, and greater State flexibility.

The primary focus of the grants program must be, and emphatically is, achievement of water quality improvements as opposed to public works. In order to redirect the program toward providing the greatest environmental quality benefits per dollar invested, it is essential to identify those projects which best address the highest priority, water quality improvement needs.

Toward this end, the administration's reform proposal includes an amendment to limit grant assistance eligibility to those categories which are treatment related. These are secondary and advanced treatment systems, cost-effective alternatives such as onsite systems or small community systems, and new interceptors and major appurtenances. These were essentially the grant eligibility categories which existed prior to the 1972 act. This provision would reduce the Federal share, as I have indicated, from $90 billion to $42 billion.

There are a multitude of water pollution problems in each State—some treatment related, others growth oriented. It is vital that we focus our limited national resources on the highest priority water pollution control needs in each State. I do not believe that we can afford for States to subsidize nontreatment needs in other States while significant water pollution control needs remain within their own boundaries.

In terms of reserve capacity, consistent with this approach, the reforms also focus on correcting existing high-priority pollution problems, commonly referred to, I think, in the vernacular as "backlog." "Backlog," as we have used it, means existing 1980 treatment related water quality needs.

We think it is essential to use our limited resources to address those problems which have the greatest impact on current water quality problems rather than those problems which may or may not exist in the future. Therefore, we have proposed for your consideration to provide step No. 3 construction funds, only for the capacity needed to treat existing community needs.

We are, however, proposing to continue to subsidize the responsibility of local government to plan for existing and future needs. This is accomplished by retaining Federal grant eligibility for the overall facility planning, step No. 1, and the design of the facility, step No. 2. By retaining Federal eligibility for the actual cost of constructing a facility geared to the needs of existing 1980 population only, it is our belief that local governments will take an even more serious look at the true priorities they want to assign to the projected needs for future populations.

In this way, local governments can determine the most cost-effective alternatives for their needs and better assess the need to invest their funds in future development. It is expected that this approach will provide an incentive for closer scrutiny of cost-effective and innovative and alternative technologies. Our analysis indicates that by focusing on treatment-related needs for existing populations, we can achieve an additional $19 billion reduction in Federal costs. In combination with limited eligibilities, this reduction will lower the total Federal share to $23 billion over a period of 10 years.

In order to insure targeting of limited resources to the States in a fair manner which directly reflects their treatment-related water pollution control needs, the administration is proposing a revision in the present allotment formula under section 205(c).

The proposed amendment to section 205(c) will authorize a modified formula for allotting fiscal year 1982 and later appropriations.

Under our proposal, each State would receive a share based on its grant eligible needs as a percentage of total national grant eligible needs. Under this proposal, each State's allotment would more accurately reflect the State's treatment-related needs in relationship to the total available money in the program.

The current allotment formula is a mixture of needs, categories, populations, floors, and hold harmless provisions. It is difficult, at best, to relate this formula to actual water quality needs.

The administration's proposal, in essence, goes full circle to the proposal made before this committee in 1972—to focus available funding on needs in categories which have the greatest impact on water quality improvements. We believe a fair and equitable distribution system should not be weakened by the historical pressures which have plagued this program in the past.

In addition to revising the allotment formula, a new workload-related formula is proposed for computing section 205(g) State program administration grants. Under the current formula, the management assistance funds available for some States are not sufficient to enable those States to effectively administer the construction grants program. The available funds can fluctuate widely from year to year and bear little relationship to the State's ongoing responsibilities under a delegated program.

Under the proposal submitted by the administration, the maximum funds available to a State for program management assistance would be based on 1 percent of the amount unexpended and unobligated funds within the State at the start of a new fiscal year or $400,000, whichever amount is greater.

It is hoped that the formula will reflect the actual level of administrative effort to be expended by the State in a given year. It recognizes that the workload for a State is comprised of more than the new grants being authorized in each fiscal year, and involves the ongoing responsibility for the State of managing the dollars and the grants which are still underway from prior fiscal years. Allocating management assistance in terms of States' actual workload will, we believe, insure both better management and more cost effective targeting for our Federal funds.

In terms of reimbursement, section 206 of the current law provides for reimbursements of projects constructed without Federal funds. Appropriations acts for previous years, including that for fiscal year 1981, have prohibited the Administrator from implementing these provisions. We recommend repeal of the section 206 authority for future appropriations. In order to respond to claims now under litigation which may be found eligible, this amendment, however, retains authority for the Administrator to pay, out of funds remaining from past appropriations, certain costs of projects funded prior to 1972.

By removing the unrealistic expectation of future year reimbursement, we would hope that communities would have an incentive to focus on their current treatment-related needs in a responsible manner. Also, the delays and confusion resulting from no appropriation and project audits many years after project completion, we hope, can be avoided.

In keeping with the objectives of cost effectively targeting and limited Federal resources, the Administration proposes to limit funding not just to projects which are primarily designed to reduce pollution, but also to those specific projects which will, in fact, achieve significant public health and water quality benefits. Priority, we believe, should be given to such projects in major urban-industrial areas, subject to the State's decision to set aside funds for small communities. Each State, under our proposal, would determine which projects meet these requirements.

States would retain their full discretion in determining the appropriate priority among their projects. This, we believe, will result in significant public health and water quality benefits and will better reflect the needs of major urban-industrial centers.

Under these criteria, the worst pollution problems in a State—by volume and location—can be addressed. In addition, the States would retain their flexibility to focus funding on small or rural communities by setting aside funds to be used for alternative systems in rural communities.

This concept of State flexibility to establish a dual priority list system—one for the large, and the other for the smaller communities—builds on a concept first developed administratively. This, as I understand it, was later reflected in the 1977 amendments to the Clean Water Act in a mandatory set-aside for rural communities and for innovative and alternative set-asides.

In addition to maintaining the basic authority of the State to establish this priority list, we propose that the States have additional flexibility to determine the best way of addressing their needs. In this regard, the current provision for mandatory, inflexible set-asides for alternative projects in rural States and for innovative and alternative projects in all States would be revised to provide that such set-asides would be as established as requested by the Governor.

We strongly support the innovative and alternative and rural programs. EPA has and will continue to devote significant resources to further implementation of these programs. In administering the program, however, we have become convinced that States need more flexibility in tailoring the use of available funds to their particular needs.

Therefore, under the proposal, a State would be able to devote a percentage of its allotment to alternative systems in rural areas, or to using the authority for an incentive grant to encourage innovative and alternative projects. Under an increased deregulated and delegated approach, it is appropriate, we believe, that the States have the flexibility to make these decisions.

In order to give the States further latitude in addressing their highest priority needs, we also propose an expansion of the States' authority to modify the Federal share by either project step or project category. This would allow, at the State's option, a State's allotment to be spread over more projects, with the Federal Government picking up a smaller share of the individual project's cost. Under the existing law, the Federal share, as we all know, is 75 percent, or 85 percent for innovative and alternative projects, unless the Governor elects to reduce that percentage uniformly for all steps and categories of the projects throughout the State.

We propose to permit the State to reduce the Federal share on a category-by-category basis as well as by project step. As a result, the States will have the option of either concentrating funds in one or two categories or spreading them out over all three. We believe that this greater flexibility is vital to permit the States to respond to their individual priorities, given the fact of limited Federal funds available.

The Administration has clearly heard one theme in discussions about how the program can be made better in its working operation. We have heard it from the States, the municipalities, and the professional community, and we have already begun responding.

Each time there is a change in the law or in program requirements, there is also the introduction of new uncertainty in the program. There are time lags in project completion as implementing regulations are developed, proposed, and then finally published. There is a period of uncertainty as municipalities assess the impact of these new requirements. Most significantly, there is often a substantial pipeline effect; that is, municipalities in the process of developing projects at the time the statute was enacted are forced to go back and redo significant portions of their analysis in order to comply with ever-changing, new requirements.

In addition, there is the impact of the other 44 statutes and Executive orders which apply to this particular program. The retroactive impact of laws and regulations, we have been told and believe, is costly both in terms of time and money. In times of stringent budgets and diminishing resources, it is vital that any changes made in the law and regulations be focused, as I know you would concur, on results rather than procedures. We are moving aggressively administratively to simplify and deregulate those requirements which are within our administrative control. The agency's deregulation efforts are geared to simplifying program requirements. The deregulation work is especially important in view of the increased emphasis on delegation of project review to the States.

A construction grants regulatory reform group has been established within the agency to analyze the construction grant regulations. Their instructions are to simplify the regulations to focus on water quality results rather than procedures, to identify which procedural requirements should be eliminated and which should be republished as guidance, and, overall, to reduce the volume of regulations.

The first outputs from this group are nearly completed and are focused on the step 1 facilities planning regulations. For example, we are revising our regulations on innovative and alternative systems, cost-effectiveness analysis, public participation, State prioritization systems, and user charge systems. We will continue to aggressively pursue this effort into the fall.

Other recent actions include deleting 34 of 47 program requirements memoranda (PRM) as being either unnecessary or duplicative. A PRM stipulates a policy with which each construction grant must comply. The remaining PRM's were published in a single bound volume containing all the requirements for initial project facility planning and have been incorporated into a single bound volume as "Facilities Planning 1981." Updated versions of these volumes will be published each year.

They represent our commitment to simplify guidance and publish new requirements only once per year before the start of the fiscal year in which they will apply. If new requirements are necessary, we will make every attempt to have them circulated to solicit comment from the public and other concerned parties. The new requirements do become effective at the start of each new fiscal year and apply to all grants made during that fiscal year alone.

A major challenge now facing our agency is to develop performance data and conduct sound technical analyses of a statistical sample of plants constructed with the funds already authorized by the Clean Water Act. The agency is, under our direction, moving to determine the best means of assessing water quality impacts and benefits associated with completion of federally funded municipal treatment works.

As I indicated, Dr. Hernandez' testimony should provide you more detail in this regard.

Mr. Chairman, as I pointed out in the beginning of my statement, the administration strongly believes that the reforms proposed in these amendments to the construction grants program are essential to the very integrity of the program. With a $90 billion price tag boosted almost daily by inflation, the program as it is now constituted, we fear, is in danger of becoming meaningless, far exceeding the ability of the Federal budget to respond.

The changes to the construction grants program which we have recommended for your consideration recognize the economic realities of the 1980's. This program, we feel, can no longer afford to be known as the largest nonmilitary public works program. In the future, it must, we believe, focus its attention on the most serious environmental problems, and simultaneously give the States the flexibility they need to help communities comply with requirements of the Clean Water Act.

Through regulatory reform to which we are committed, through cost-effective projects, and through sensible belt-tightening, we hope that we, together, can help meet the administration's joint commitment to economic recovery and clean water.

I would like to respond to those questions which you may have, and then later introduce more formally Dr. Hernandez, who will go into substantial detail on the proposed amendments.

Thank you, Mr. Chairman and members of the committee.

Mr. ROE. Thank you very much for your excellent testimony. I think it has been very comprehensive and to the point, and I think you have reflected well on what the administration considers to be, in their judgment, on this phase—the grants phase of the program—critically important for revision and adjustment.

I might respectfully suggest that we enjoy to your testimony. If you were sitting on this side of the aisle, you would also wonder why it takes so long to get anything achieved, given years of work and constant changing of regulations. This has added materially to the cost of this program and cut down its effectiveness.

Now, for the benefit of the members who were not here at the opening of the session, we are going to have the Administrator back on the 29th, or next week, to further review in more detail the matters that we will be hearing in testimony from the States and from the other governmental agencies throughout the country.

So, I do not know whether we want to get into any real in-depth questioning today. Technically, I think we have to analyze what you have spoken to and what you see to be the problems that we should be dealing with.

May I suggest one point, however?

Mrs. GORSUCH. Certainly.

Mr. ROE. I do like the approach very much, from this member's point of view and as chairman of this subcommittee, to redevelop it where the States will have something to say, finally, about what is going to happen in this program, and set up priorities on what they can do.

I hope that the administration will remain flexible enough—and I see some writing in here that would be open to interpretation and questions later on.

A sewage disposal program is a system, and if the system does not function as a system or a part or a piece is left out, then it is not going to function at all satisfactorily. That has been part of the major problem, in my judgment, relating to this program, together with the timeframe to get a decision, which has been interminably long and which has cost, when we consider inflation and costs of construction, probably 30 percent in increases a year. If we were to decide sooner and move ahead and make the decisions, we would be able to get the projects going much sooner and we would save countless hundreds of millions, if not billions of dollars.

I hope that when we get to the final point of what is an integral part of a sewage disposal system—if our goal is to clean up the pollution of the waters—then we have to relate to those objects that are causing the pollution in the first place. I hope we can have flexibility in that direction, such as replacement of combined sewers, which is absolutely crucial to the Northeast, or we might just as well not bother to have a sewer program at all. We will get into that later.

The gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman.

In keeping with our chairman's suggestion that we defer specific questions until the 29th, which I think is a very good suggestion, I am going to, of course, honor that policy.

We do appreciate this broad overview of the agency's position which you have given the committee today. I do have one question that might relate to policy.

Mrs. GORSUCH. Certainly, Mr. Hammerschmidt.

Mr. HAMMERSCHMIDT. The 1990 strategy effort of last year sought direction for the construction grants program over the next 10 years. It was based on reports I have received of a very thorough and professional endeavor. It began addressing many of the key issues in the program, and I believe it could be valuable if continued.

I wonder if you have plans either to use the preliminary results of the 1990 effort or to continue it.

Mrs. GORSUCH. Mr. Congressman, in order to give you a proper response, I would have to defer until a later time. I think that is a very legitimate question; I would be happy to look into it and respond at a later time.

Mr. HAMMERSCHMIDT. Fine. Perhaps on the 29th, then, we can go into that more in detail.

Mrs. GORSUCH. I will be prepared at that time.

Mr. HAMMERSCHMIDT. Thank you very much, Mrs. Gorsuch.

Mrs. GORSUCH. Thank you, sir.

Mr. ROE. In view of our program this morning, are there any other specific questions that a member may wish to ask?

The gentleman from Minnesota, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman.

First of all, in reading your statement, I find some inconsistencies which I think are important to explain, and then I have a policy question.

On page 4, you refer to the Federal share for the estimated needs at $90 billion, and then a little farther on you say that you can reduce the budget by limiting eligibility to treatment-related needs. "In this way, the Federal share can be reduced to $90 billion." You have not reduced anything.

Mrs. GORSUCH. Mr. Oberstar, I am sorry that you received an uncorrected copy. I found that same error this morning on my way in to testify. That should be $42 billion.

Mr. ROE. $42 billion.

Mr. OBERSTAR. $42 billion?

Mrs. GORSUCH. Yes, sir.

Mr. CLAUSEN. It is on our corrected copy, Jim.

Mr. OBERSTAR. Then you say that by eliminating funding for future growth, the Federal price tag can be cut to $23 billion. Yet, the backlog estimate in EPA's own needs survey is $30.5 billion.

Mrs. GORSUCH. Mr. Congressman, our analysis shows that, No. 1, under the current law, if nothing were changed, the Federal share of current needs would approximate $90 billion. Two approaches have been taken to that price tag.

No. 1 is the proposal to limit current eligibilities to those which we feel are related to treatment needs only. If we did that, that would take us from the $90 billion down to the $42 billion.

Likewise, if we look at 1980 population figures as opposed to the year 2000 population figures, the current needs survey being an estimate of the year 2000, we find a further reduction down to the $23 billion that you have seen described.

So, there are really two approaches to the administration's proposals: No. 1, to ask for a reduction in the current eligibility categories; and, No. 2, to make a Federal commitment to those pollution problems which exist today as opposed to the year 2000, saying that growth becomes a matter for local and State concern rather than Federal.

Mr. OBERSTAR. I would like to have something more detailed on how you get down to the total, in the needs categories of I, II, and IVB, of $23 billion, and you can submit that at a later point.

The policy question is one that you have just mentioned and which is on page 4 of your statement. It is a major departure from legislative policy, and that is to build now for future growth. What the administration apparently is going to be following here is a growth limitation policy through water pollution control facilities, and that is a major policy departure and one that I think has significant implications for this country, for the Northeast and Midwest areas, and for any area of potential growth.

I wonder how it is you came to this policy and whether the administration has carefully thought through the ultimate impact of this policy change.

Mrs. GORSUCH. Well, I think your interpretation is certainly one that could be arrived at. However, I would not characterize it as you have; rather, that the growth questions for various parts of the country are a matter of local concern. The Federal effort in this area ought to address the backlog, as this program was originally initiated and intended to do, in terms of environmental quality.

Mr. OBERSTAR. I respectfully disagree with that viewpoint, having followed this program and been a part of it for 18 years. It was not to clean up the backlog; it was also to address future growth needs, understanding that to build today means saving money in the future.

Mrs. GORSUCH. Well, I think we have got two concepts going here. In terms of future growth, we are shifting the focus saying that future growth should and will be the responsibility of State and local governments. We believe that this focusing of their attention as well as their responsibility will result in greater cost savings in terms of future construction.

It is our belief that the Federal responsibility in this area should be directed toward those programs which have the greatest water quality and environmental impact, where existing problems have been identified, and where the Federal Government can participate with the local communities in solving those existing problems.

Mr. OBERSTAR. Well, I think we have a basic policy difference—one that I think we will reflect on at a later point.

Mr. ROE. Will the gentleman yield?

I think, for clarity, it appears to me, in the first blush of the review that we have had so far, that we are going back to a process before 1972, before we enacted this law, where, in fact, we say that a percentage of funds will be made available to the States giving them flexibility where they choose to put priorities and what kinds of funds they choose to allocate into what projects.

This is a major, major departure, and I do not say this in any affrontery to the Administrator at all. Rather it is a major departure from the 1972 law and what the intent was. It seems to me that if we are recognizing that there is a $130 billion backlog which has grown sort of like topsy and we are saying we are going to go to the $90 billion, and then we can do certain things and go to $42 billion, in effect, it is going to be transferring these added costs back to the States, if the States want to do anything about it at all.

I think that this committee is going to have be very, very artful in its adjustment to this. I do not consider this to be reform in the sense of reform that we can do better, but what part is going to be transferred back to the States. I think we are going to have to be extraordinarily careful in how we draft this bill so that we are not dislodging all over the country that which we attempted to get corrected in the first place.

Mr. OBERSTAR. Or disconnecting ourselves from a Federal responsibility toward clean water. The policy of this administration, as expressed here in this statement, is a restatement of the Eisenhower veto of 1960, in which the President said that Federal support would only impede local efforts at cleanup. Well, that has just been proven wrong by the subsequent 20-year history of the program.

Mr. ROE. Well, would the gentleman yield for just one more point, and then I would defer to other members?

Mr. OBERSTAR. Yes, I yield back.

Mr. ROE. I think one thing the committee has to keep in mind on both sides of the aisle is that we have labored for many, many years to achieve the goals that we tried to achieve. We wrote; we enunciated; we labored; we did everything possible that human beings elected to Congress could do.

But we had an administration in that department that did what they damned well pleased. They wrote the regulations and negated everything this committee wanted to do. They have created a national scandal that is a disgrace to the Nation. We have not achieved the goals that this committee started out to do in the first place, which I know we would both agree on.

I am hoping that we can get a conciliatory movement going, saying that, "These are the things we can get done." I like the idea of the States having some more flexibility and a little decisionmaking, but not to the point where EPA says, "Well, we are going to build for 1980 and you are going to put in one sized interceptor, and if you want to do something, do it later on." We are going to need the flexibility, if we want to add more funds, and we should be able to do it.

So, I hope that we can ultimately get some kind of reconciliation in this whole program to make it workable.

Mr. OBERSTAR. I agree with the chairman to a limited extent.

Mr. ROE. I did not expect you to agree all the way. [Laughter.]

Mr. OBERSTAR. But I do not think that it is a very useful message to the States that, "We are going to give you more flexibility but less money," and expect them to do the job. Flexibility without money means absolutely nothing.

Mr. CLAUSEN. Would the gentleman yield?

Mr. ROE. The gentleman from California.

Mr. CLAUSEN. Well, you know, having spent most of those 18 years with you, Jim, both as a staff member and as a member of this committee and trying to address it, I think the key phrase in all of this is what is realistically attainable.

You know, there are times when you send so much money out there that it tends to distort what the priorities really ought to be. If the gentleman will recall, back in the 1972 act the version that this House was attempting to advance, as contrasted with what the Senate was attempting to advance, was certainly more in the direction of being realistic.

By the same token, the GAO reports and the working experience that we have had out there with the States suggest that there are some serious problems with the construction grants program. So, therein lies, I believe, our challenge.

What I think we need to have is not only the flexibility but the responsibility to be assumed more and more by people who have the ultimate responsibility in the implementation, because all the way through the hearing record, whenever there has been an oversight, investigation or evaluation, it clearly points up that there has been, for any number of reasons, a lack of ability to implement that which we legislate, and I have been stating this with regularity.

So, I think that what we will need to have is a list of these priorities, and force the States themselves to give us that kind of prioritization so that we can more effectively assess where we are going to go legislatively in meeting this balanced perspective that I think we have to have.

Mr. Roe. The gentleman from Alabama.

Mr. Flippo. Mr. Chairman, I wanted to express my concern that the policy statement of the administration, I believe, will result in a significant realignment of funds among the States, and at the proper time I would like to investigate that further.

I would also hope that during these hearings, we can look at the backlog area and try to understand why this program has not worked as effectively as it might have. I would also express my concern that the program policy, as enunciated here, does not deal with fixing the present system in terms of making present treatment facilities work more effectively.

I think that before we look to new programs, we ought to fix what we have, and I fear that the proposed policy changes eliminating certain sections of this bill that permit us to honestly study the backlog and provide for the equitable distribution of funds and to fund I/I control is very important.

I fear that the policy, as stated this morning, will result in a significant shift of funds away from some of the growth areas in the Southeast and other areas as well and disrupt orderly economic growth.

Mr. Roe. The gentleman from Texas, Mr. Fields.

Mr. Fields. First, I would like to welcome you and commend to you two people—Ms. Fran Phillips, the acting regional administrator in Dallas, and Dr. Al Davis. They recently helped me in a situation down in the Houston Ship Channel, and I found them well-informed and cooperative. They came to Washington, and I wanted to bring this to your attention.

Also, trying to stay within the parameters of our chairman, I would like to ask a question which I think is policy, but it is also very important for the State of Texas. The State of Texas is prepared to come to these hearings and testify, and I think they need this information for their testimony; that is the reason I am asking it now.

Could you tell me if a State or States would be allowed to submit a separate State estimate for backlog needs?

Mr. Roe. Ask him to speak more into that microphone; we cannot hear him.

Mr. Fields. Are you able to hear me?

Mrs. Gorsuch. No. If you would repeat that, I would appreciate it.

Mr. Roe. We are having difficulty hearing you. Would you speak closer into the microphone?

Mr. Fields. All right.

Could you tell me if a State or States would be allowed to submit a separate State estimate for backlog needs?

Mrs. GORSUCH. Yes, indeed; yes.

Mr. FIELDS. They would be able to?

Mrs. GORSUCH. Yes.

Mr. FIELDS. I think the State of Texas would be very interested in supplying you with this information because it believes that their estimates would be different from those estimates that have been provided thus far by the EPA.

Mrs. GORSUCH. Thank you.

Mr. FIELDS. Thank you very much.

Mr. ROE. The gentleman from Pennsylvania, Mr. Edgar.

Mr. EDGAR. Thank you, Mr. Chairman.

I appreciate the opportunity to hear your statement, and I apologize for not being here for the whole statement.

I have a concern. A number of the new initiatives of the new administration relate to sending back to the States and the local communities the responsibility to make decisions, as well as a great deal of the responsibility of coming up with the resources to make those necesssary changes and, in this case, to provide for some clean water and some elimination of water pollution.

I wondered if your agency, in their policy analysis, has done any work in looking at the regional problems of State and local resources. The point I am making is that there are certain States that will have resources over the next 10 to 20 years as a result of deregulation of fossil fuel oils and as a result of severance tax revenues.

There are other States that may have deficit budgets and may make decisions that are anticlean water and antiwater control and pollution control, based on the limited resources that they have. There are certain States, particularly in the Northeast and Midwest, that have lost great amounts of population over the last 10 years. They do not have the tax resources to rehabilitate, reconstruct and renew, let alone talk about extensions of their water systems.

Yet, there are other areas of in-migration where, with great population influxes, just a small tax is enough to provide for local resources to do certain things.

Has there been an analysis within your agency of the regional disparities of resources available to respond, if the administration's policy is taken to full light?

Mrs. GORSUCH. Well, let me say that that question relates back to Mr. Flippo's inquiry of will there be a shift in resource allocations of Federal dollars.

To answer your question specifically, I do not believe there has been an analysis, per se, of State resources available for response. But there will be, if the administration's proposals are enacted, a significant shift in the Federal dollars available, essentially from what we consider the growth-related areas of the country, where you have the in-migration as well as some of the other indications for tax resources that you have mentioned, to those areas of the country which have the worst water quality problems—specifically, the major industrial areas.

That will be a cause for concern and consideration by this committee, but it was a deliberate shift that was undertaken with full knowledge of that we had to take those limited Federal resources and put them where we find the largest water quality or pollution problems. That does happen to be in those areas of our country which have the largest populations and the largest major industrial bases. The Northeast would be the generalization.

Mr. **Edgar**. I appreciate that. I have some concern that the Federal dollars may be spent properly, and the question is whether or not the local matches and the local responsibility will be there in some of those communities that are stressed and that have difficulty coming up with basic services of police and fire protection or rehabilitation of basic bridges and basic streets, with the age of the infrastructure.

We have some communities that put their water systems in place 50 to 75 years ago and that may have different needs than areas of new growth. I just think that in our policy initiatives both at the Federal level and its implications for the local level, we ought to be cognizant of that.

Mrs. **Gorsuch**. I appreciate that. I think that upon studying the administration's proposals, you will see that we were cognizant of that problem.

The other thing that I would bring to your attention is that in our proposals there is flexibility for the States. Instead of the old 75-percent Federal money, and therefore 25-percent State share, we have given them flexibility both in terms of project by project and step by step, which would allow some flexibility in tailoring particular States' responses.

Mr. **Edgar**. Thank you very much.

Mr. **Roe**. The gentleman from Florida, Mr. Shaw.

Mr. **Shaw**. I would like to also welcome you before the committee.

Mrs. **Gorsuch**. Thank you, Mr. Shaw.

Mr. **Shaw**. On the few matters that I have had contact with you, I was quite impressed with the way you have taken grasp of your responsibility and your knowledge of what is going on in what must be a very confusing maze.

I do have a question. When we start talking about the question of not taking responsibility for growth, in Florida that makes us very nervous. You have mentioned that growth would become a State problem rather than Federal. Could you expand on that once more?

Is what you are saying that what we are going to do now is to strike a line as to what the present needs are and not go forward at all with created needs through increased growth—a complete shift of the Federal Government so that its further responsibility under this plan will be to take care of what the existing problems are and completely shift the burden over to the States on all future problems?

Mrs. **Gorsuch**. Essentially, yes. As I have indicated, in the planning and design functions for construction, step 1 and step 2, there will continue to be Federal participation. It will be in step 3, the actual construction, that we would ask the State and local governments to find their own resources for construction of those items which are related to reserve capacity and future growth.

There are two aspects of this, as it comes out in the proposed legislation. One certainly is the change to basing needs on 1980 population figures as opposed to the current provision of the law which would base the needs on a year 2000 projection. That is definitely there.

The other major thrust of the administration proposal has been to say there are limited Federal resources, and what should be the Federal participation in this program? Obviously, all of these needs need to be addressed by someone, but we have limited Federal funds that can be used.

The price tag of $120 billion that has grown so enormously in the past, calculated under the current law, is really our most serious consideration. It has been our purpose and our hope in making these proposals to you for your consideration that while they do not address every problem that is out there, we can use Federal funds that are available to address the most significant ones.

Mr. **Shaw**. Has any thought been given as to what is going to happen to the next generation of treatment plants that are coming along?

I have seen this from the other side, having been in local government, and I do not believe that local communities—and this is probably true all across the board—are preparing for obsolescence and replacement. In their bond issues and what not, they have become totally dependent upon the Federal dollars and no thought is being given as to future planning.

Has any thought been given by the administration as to the requirement that some type of funds be provided through contribution or refund to the Federal Government on a total plan such as we have in roads, so that moneys will become available through the bonding procedures that are used in local government?

Am I being clear or am I confusing you with my question?

Mrs. **Gorsuch**. Well, I think if I am getting the sense of your question, it is whether we, at the Federal level, have given any thought to means of encouraging local governments to look beyond current needs down the line.

Mr. **Shaw**. Or requiring it.

Mrs. **Gorsuch**. I am sorry?

Mr. **Shaw**. Or requiring it.

Mrs. **Gorsuch**. Very frankly, I do not know that that specific issue or policy question has been addressed in our considerations. It is certainly a good one, but I think one problem that constantly emerges, at least from my evaluation of the various reports on the construction grants program, is that because there is a duplication of responsibility along the line both in terms of planning and designing a new plant and then actually constructing it, the duplication being requirements of State and local governments and then further review by the Federal Government, somehow this process has lent itself to a dissipation of responsibility.

As you point out, local governments have become very accustomed to having the Federal dollars there. It is our hope that both through this legislation and through our own administrative actions, we can focus responsibilities, and therefore authority, that lead to clearer expectations of who should be doing what.

On your specific question, I would have to inquire of the agency as to whether they have given that any serious thought. I frankly have not.

Mr. **Shaw**. I think what we are going to see, particularly in the growth areas, is a tremendous variation in simple things such as a water and sewer rates from one city to another and one jurisdiction to another that are going to become a real problem for local governments.

I think local governments are in for one whale of a hangover from the moneys that have been available and now having to face the problem of dealing with growth themselves. I think it is going to create some problems so that we should address ourselves perhaps to weaning them off rather than just cutting them off.

Mrs. **Gorsuch**. Well, there will be dislocations, as there are in any major changes. I think the one recommendation that the administration's proposal has in that vein is that we are prepared to commit to an ongoing, stable figure over a period of years.

There certainly is a great deal to be gained from a certainty of expectation of funding. That is our commitment.

Mr. **Shaw**. Thank you.

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Mr. **Roe**. I just want to leave you with one thought, if I may, from listening to the dialog. I know you have other places you have to go to.

We talk about that national policy situation. One of the reasons that the 1972 law was born was based upon the point of view, in candor, that the States were not controlling the pollution problems as they should have. Of course, there was not a national uniformity involved, and then we had the enormous problems in an interstate methodology where you had ocean waters involved and river involved that were being used for water supply, and so forth.

It seems to me that if we introduce again a total flexibility to the State where the State could determine whether it chose to provide any funding or any percentage of funding in their priorities to a particular area of the State, it could very readily get to a point where the growth would take place without any controls and without any Federal input as a national policy.

I am not talking about the constraints of telling people whether they should put an I-bolt in this or that. I think there has been too much of that. I am just wondering how much of an impact this is going to have on a national policy. If we are going to clear up the pollution, then there have got to be some kind of standards and directions that the Federal Government would have to have an interest in.

For example, the 1981 law on dumping the sewage sludge into the ocean, negating that and saying, "Well, maybe that was not that serious in the first place," after it cost the communities and regional sewage disposal organizations countless hundreds of millions of dollars, and all kinds of consent decrees; it was unbelievable. We come back now and say, "Well, maybe it is not so bad that we do dump in the ocean."

So, I am only hoping that when we start speaking of national policy, in order to enforce a national policy the Federal Government has got to have a handle on it. Otherwise, the States will come back and say, "Well, because a priority has been set that I am going to be allocated 10 percent, I am not going to go through that drill. It is not worth it to spend 7 years trying to get an approval. We will go our own way."

Then we come back and say, "Well, what national policy do we have then," or the prerogative goes specifically to the State involved, and how does that affect the differing positions in one State to the other where there is commonality, if you like, of rivers and water courses in between?

So, I hope that as we are crafting the next approach, we do not say, "Well, we are going to go back to 1965 where everybody does it their own way," because you are not going to clean up the pollution if we go that route, at least from this member's point of view.

Mrs. GORSUCH. I appreciate your remarks, Mr. Chairman, and we are not here today proposing any changes in the standards or the requirements of water quality of the current law.

What we are proposing is that we take the budgetary considerations of the Clean Water Act this year and try to focus, again, limited Federal dollars on those areas where we think we can get the most environmental benefit, while simultaneously internally addressing those areas of concern in the administration of the program which have rightfully been the cause of serious concern to this committee.

That is an enormous task; I hope you can appreciate that. We are facing a backlog not only in terms of needs, but a backlog in terms of unaudited grants that have been issued to meet those needs.

Next year, we would hope we would be able to come to you and the other members of this committee and work on those issues of the law that mutually we can identify may need addressing. We are not here today doing that.

Mr. ROE. Splendid. We want to thank you very much, Mrs. Gorsuch, for your initial testimony and for your overview. I am sure it is going to be a great help to this committee. We are looking forward to other witnesses, and then we want to get back together with you and your colleagues to see where we go from there in writing this legislation.

Mrs. **Gorsuch.** I very much appreciate this opportunity not only to appear before you but to make your acquaintance and understand at least the general nature of some of your concerns.

I would personally appreciate as detailed questions as you all would like to submit in advance so that I can be prepared to address those at a later date.

I would now introduce Dr. Hernandez.

Mr. **Roe.** All right. Thank you very much.

Mrs. **Gorsuch.** Thank you.

Mr. **Roe.** Now, Dr. Hernandez, you have your testimony. So we want to again welcome you as one of our outstanding leaders in the Nation in the field of water resources and water pollution control. You have a substantial statement which we will enter in full in the record, because I notice you have a lot of statistical tables, and so forth, and then we would suggest that you go right ahead after you are greeted by Mr. Hammerschmidt, and then we will continue with your testimony.

Mr. Hammerschmidt?

Mr. **Hammerschmidt.** Well, I will not take any of Dr. Hernandez' time. Again, I say we are delighted to have his knowledge and to have him before the committee.

Thank you.

Mr. **Roe.** Dr. Hernandez.

Dr. **Hernandez.** Mr. Chairman and members of the subcommittee, it is a pleasure to be here this morning. My testimony is designed to respond to your letter of invitation and to take up certain issues that you set forth, and that will be taken totally in the record.

What I would like to propose is that I read about the first 6 or 7 pages of my verbal testimony, stand for questions, read the next 3 or 4 pages, and follow that through, because it is about 23 pages long, but I think if we take it in sections, it will probably help us focus. So, if that is all right with you, I will do that, sir.

Mr. **Roe.** That is agreeable.

Dr. **Hernandez.** The construction grants program, as we know it today, was created in 1972 as a portion of the Federal Water Pollution Control Act. The program was created at a time when we believed that with sufficient funds and American ingenuity, there was no problem that could not be solved quickly and effortlessly.

Significant progress has been made in implementing that program, and along the way we have learned a lot. Today, we have an opportunity not only to review the progress that has been made, but also, and perhaps more importantly, to reassess our earlier expectations in light of present economic constraints, and direct the program to the solution of our water quality problems.

Mr. Chairman, many aspects of the program have worked and worked well, but there have also been some obstacles. One of the issues I want to focus on today are the major difficulties which continue to face us. Significant aspects of these problems can and are being dealt with administratively. However, the President has recognized the need for some reform which can only come through legislative proposals with your help.

President Reagan recognizes the need to reduce the level of Federal involvement in these programs which rightly belong at the

State and local level. This in no way represents a weakening of our commitment to the protection of environmental quality, but rather it is an honest evaluation of the importance for balance in our environment, our economy, and our Federal-State relationships. This program, like every other program, must do its share to fight inflation and enhance economic recovery.

The new reform legislation is necessary to complete our goals of developing a cost-effective targeting of the program at water pollution problems, simplifying the Federal requirements, and moving the source of actual decisionmaking to the level of government closest to the problem.

To accomplish this, the program is reformed primarily with two objectives: cost effectiveness and more flexibility for the States. In discussing the attainment of these two fundamental objectives, I will begin with an overall examination of the construction program itself. Then, after touching briefly on the legislative reforms discussed by Administrator Gorsuch, I would like to turn to our administrative initiatives, quality control, plan performance, and finally to the issues of water quality improvement achieved to date.

The Federal Water Pollution Control Act Amendments of 1972, together with the amendments of 1977 and 1980, define the program as it currently exists.

Under the 1972 amendments, a minimum technology-based standard, referred to as a secondary standard, was established nationwide. In keeping with legislative history, this secondary requirement was defined by EPA to be a fairly stringent quality of effluent based on what we thought was a generally achievable biological treatment process. Also, EPA was to establish water quality criteria which were to be the basis for minimum water quality standards.

In implementing the new law, it became clear that municipal treatment needs had been underestimated and inflation was rapidly escalating the costs of meeting these needs. There was a growing awareness that not all the community treatment needs were best met by conventional secondary treatment. Indeed, it was becoming obvious that with double-digit inflation in the construction industry, not all communities could afford to construct, much less operate such treatment plants.

Recognizing these problems, Congress passed the Clean Water Act Amendments of 1977. The amendments provided financial incentives for innovative and alternative technologies and expanded eligibilities for less costly, nonconventional treatment facilities for small communities.

Communities were given more time to meet the secondary treatment requirements, and for the first time, the Administrator was given special authority to grant a waiver from secondary treatment requirements to qualifying ocean-discharging municipalities.

Most significantly, though, the 1977 amendments encouraged delegation to the States of project review responsibilities.

Any discussion of the mechanics of the construction grants program requires a common understanding of several key concepts, such as allotment, allocation, priorities, set-asides, and the three-step grant process.

Construction grant funds are appropriated by the Congress each fiscal year. These funds are then distributed among the States according to an allotment formula which is set by the Congress. Each State has until the end of the fiscal year following the appropriation to use its share of the money.

If, at the end of the second fiscal year, a State has not obligated all of its share of money, those funds are redistributed by statutory formula to the other States. Under existing law, a State which loses unobligated funds cannot share in their redistribution. As a practical matter, funds have only been reallotted once, involving fiscal year 1978 funds for one State in the amount of $23 million.

By statute, the funds allotted to a State must be used to provide 75 percent grants for planning, design or construction of grant-eligible portions of a municipal wastewater treatment system.

The 1980 amendments authorize the Governor of a State to uniformly reduce the Federal share within the State. The statute also emphasizes the importance of local financial responsibility for operating and maintaining treatment works.

Current law provides for three mandatory set-asides of certain portions of the construction grant funds: Rural set-aside for States with more than 25 percent rural population, innovative and alternative technology set-asides for all States, and State management assistance grants to delegated States.

The money which is available to States for grants is allocated within the State through a priority list. The priority list is called for by statute. Any project within the fundable portion of an approved priority list is eligible for funding. When a State recommends a project for funding, EPA or the delegated State must determine whether the specific requirements of the Clean Water Act are being complied with. In addition, projects must be reviewed to determine whether the provisions of 44 other applicable laws and Executive orders have been properly taken into account.

Generally, the funding of any one project is divided into three separate steps. Step 1 consists of basic feasibility planning, the consideration of alternatives, the analysis of environmental issues, and the selection of cost-effective approaches. Step 2 refers to the engineering design of a specific project. Step 3 refers to the actual construction of the project and is generally the most expensive phase of the project.

With respect to the Federal Government's funding of this program, we see an erratic course over its history. From fiscal year 1973 to fiscal year 1981, $39.2 billion was authorized, $33.2 billion was appropriated, and $21.2 billion was awarded for construction grants.

A major issue in managing the program from the local, State and Federal level is the fact that the actual release of funds has been unstable and unpredictable. In the period 1973 to 1975, $9 billion was made available for grants. In 1976, an additional $9 billion was released. From 1977 to 1979, $10.2 billion was appropriated, and for 1980–81, $6.7 billion was appropriated.

Turning to the present, Congress in June 1981, enacted a rescission which reduced available construction grant funds by $1.7 billion. The reduction in each appropriation was distributed among the States according to the present allotment formula specified in section 205(c) of the Clean Water Act.

Despite this uneven funding pattern in terms of actual project grants completed to date, progress has been made. A total of over 13,000 grant projects initiated prior to the enactment of the 1972 act have been completed. These grants were awarded to about 10,000 sewage district jurisdictions.

As to project grants awarded since 1972, 9,641 planning, design and construction projects have been completed to date. An estimated 3,200 construction projects of the 1973-81 funding period are now operating, although some of these have final inspection and audits to be completed.

A major emphasis of our administrative reforms is to shorten the time it takes to complete a project from planning through construction. This means focusing resources on the highest priority projects that have the best chance for funding. To speed facilities planning and to move projects to design, certain projects are being selected for fast tracking.

Recognizing that available funding is limited and that funds must be used to provide a maximum benefit, we are investigating administrative options such as revision of secondary treatment requirements, the potential for using benefit-cost analysis, approaches to defining water quality impacts, the water quality basis of State priority systems, revision of the municipal management system, and basing the needs survey on water quality priorities.

I will stop at this point, Mr. Chairman, and accept any questions that you may have at this time.

Mr. ROE. At the outset, let me suggest that I think that your chronology was a good one and was well done as to what this program has been about up to this point.

Going to page 9, your last paragraph, "Recognizing that available funding is limited and that funds must be used to provide a maximum benefit," really, what we are saying there, unless I am interpreting it incorrectly, is that the determination of what we are trying to achieve is going to be based on funding now available.

There is no guarantee—and I do not mean this unkindly—there is no guarantee that with that $2.4 billion we are going to achieve a significant cleanup in the water quality of the Nation at this point. We do not know how that transfers back in any new formulation of State-added investment to that $2.4 billion that is kicking around.

There really is not any direct relationship between $2.4 billion and cleaning up our pollution. Would that be a fair commentary?

Dr. HERNANDEZ. Let me say some things about future years which are not clear in the President's bill. The administration's commitment is to implement these reforms that we have had presented and to provide $2.4 billion during fiscal year 1982 for the program's operation.

I think that the Congress at this time needs to send a signal to our communities that if we continue this program in the direction that the administration has proposed, in a period of 9 to 10 years we will achieve those basic water quality-related needs of our communities—that is, treatment plus interceptors.

As you will recall, those are on the order of $23 billion, and a 10-year program at $2.4 billion a year would approximate that sum of money. I think we need to give the communities a clear-cut signal at the end of this year's process that this, in fact, is what we plan to do.

Some of Congressman Shaw's questions related to how are the communities to know, in terms of their planning and in terms of providing for rebuilding in future years, because things wear out. I think it is that kind of a signal that we have to send to the States on what we plan to do in the future.

Mr. ROE. Well, if the gentleman would yield, I would agree with that because that is what we are saying.

Dr. HERNANDEZ. Yes, sir.

Mr. ROE. There is only going to be $2.4 billion available and we are going to reallocate the formula and we are going to redirect, according to what the Administrator said, the bulk of those funds, in the direction of the industrial States with greatest need.

That is presupposing that the Nation is going to stand still. I believe Mr. Shaw lives in the most rapidly developing area in the entire Nation. So, in effect, we, as Members of Congress, do not have any control on the shifting of people and where they are going to live.

All I am trying to get into the record is that as you are testifying to, and as Mrs. Gorsuch has testified to, the $2.4 billion, which is the ceiling that the administration is recommending, will do just so much and no more.

Depending upon where it is allocated, if we do not keep strong controls, then the States are going to come back and say, "Well, we either do our own thing our own way, providing our own funds," which can negate a national policy. All that notwithstanding, we are coming back and saying that the program is going to be directed and controlled by the quantitative dollars that are being made available.

Is that a fair commentary?

Dr. HERNANDEZ. For those basic water quality needs that we now face.

Mr. ROE. OK.

Dr. HERNANDEZ. This is really a water pollution bill.

Mr. ROE. Well, I just suggest I am having some difficulty with that. For example, this committee met with Mayor Koch. In New York City, they are planning on building a convention center. I think the quantitative effluent was about 2 or 3 million gallons a day, which is a pinch of snuff in the order of magnitude of what we are dealing with. However, it was symbolic; we were sending a message to the people.

The amount of sewage going into the Hudson River is on the order of about 300 million gallons a day. If we do not have enough funds to make a difference in a project, then we ought not to invest in it at all. Putting in 8 or 10 percent or 3 percent is not going to improve that situation. That is all I am trying to get at.

In my own community, for example, after EPA got done with their whole bit and had 16 billion things that had to be done, one of the things that they had to deal with was the drying of the sludge. They need something like $18 million for that project. Now, EPA comes back and says, "We do not know whether we can give you the $18 million." Well, you might as well throw the rest of the plant out. What are they going to do with the sludge? They have got to do something with it, which was EPA's regulation in the first place.

If we are only going to allocate these funds in the manner in which we are talking about, this $2.4 billion—and I am only trying to get this into the record to a point—I would like to see how that is appropriated and how it is going to handle the Bergen County sewer district and all of those areas that are pouring into the Hudson River, which materially affects the whole east coast right down to Virginia.

In other words, we do not want to raise the expectations of our people. We must stress that the $2.4 billion is an enormous change being made in this program as far as any improvement of the quality of the water supply is concerned.

Dr. HERNANDEZ. Mr. Chairman, that is for this year's appropriations. I would hope that in future years it would also be that sum for some period of time. The kind of signal that we should send to our cities across America is that this will terminate some time 9 or 10 years hence when we feel that we have met those basic needs.

Mr. ROE. The gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Dr. Hernandez, the flexibility in last year's amendments by allowing the Governors to modify the Federal share—how do you think that has worked, and what States have indicated they will use it or may use in the existing system?

Dr. HERNANDEZ. I do not think it has worked very well. I think there is probably one State that may have used this, and when you think that this looked like a wonderful opportunity for States to do that, I do not think that last year's provision of allowing a reduction was as flexible as that now proposed by the administration.

What we propose is not only an across-the-board reduction in percentage, but category-by-category reductions in the Federal contribution, and step by step, which really gives them a good deal of leeway in making choices on the Federal grant share.

Mr. HAMMERSCHMIDT. Thank you for your response. As you know, we are going to withhold many of our more technical, specific questions until the 29th, but I do have just one other question I want to ask you today.

Dr. HERNANDEZ. Yes, sir.

Mr. HAMMERSCHMIDT. To what extent does secondary treatment technology eliminate or reduce the discharge from POTW's of toxic and heavy metal pollutants with and without pretreatment?

Dr. HERNANDEZ. I think that our knowledge on toxics is really quite limited. Where a treatment plant receives a steady diet of a particular organic chemical, the biomass of the secondary treatment process acclimates to that and can handle it to a large extent. We have found that even with chemicals like dioxin, you can build up a biomass that will degrade the pollutant to a harmless form. Dioxin is probably the most unusual of those kinds of things. Other toxic organics are volatile, and are stripped in this secondary treatment process. Nevertheless, we just do not know that much about the fate of the full range of toxic organics in secondary treatment plants and we will have to, as time goes on, look at those.

Now, in terms of the heavy metals, secondary treatment plants have a significant impact on removing these materials because of their uptake into the biological mass. We feel that there is a real benefit to secondary treatment in that respect. We should print out, however, that the metals removed by secondary treatment generally ends up in the sludge. We are continuing to look at how these metals affect the ultimate disposal of the municipal sludge.

Mr. HAMMERSCHMIDT. Thank you, sir.

Mr. ROE. The gentleman from New York, Mr. Nowak of Buffalo.

Mr. NOWAK. Thank you, Mr. Chairman.

We have a particular problem, also, in my section of the country, referring, of course, to the Great Lakes. While I know this is a policy session here today, there is this fear that because of the cuts that are being suggested, EPA is undergoing a basic and fundamental change in their commitment.

The fear, of course, in our area is that the Great Lakes will start to reverse the progress that has been made; especially, under the proposed cuts, an awful lot of the research is eliminated in the budget. The Great Lakes laboratory in Grosse Pointe, Mich., is going to be greatly reduced or totally eliminated. We have the Roger Simmons, which is a lake-going vessel monitoring the Great Lakes, being put in drydock indefinitely.

Much of the concern, of course, is because of the budget cuts. I wonder if you could generally outline what you feel will be done about that particular problem in the Great Lakes which really does affect the Nation. The Chairman mentioned before the problems of looking at this as a total, comprehensive plan, because it is of little value if, in Erie County or Buffalo, N.Y., we take steps that are not taken in Ohio or Michigan. Of course, that brings in the whole Canadian problem, where Canadian officials have expressed great concern about the cuts and are wondering what the retrenchment will mean in the total program. I am sure that the President this week will hear about that.

I would like you to have the opportunity to comment.

Dr. HERNANDEZ. Yes, sir, I would be pleased to respond. I met yesterday with our acting administrator from region V and with Donna McGrath, who is the director of that Great Lakes study, and talked to her about what our obligations were and our plans.

This fiscal year, I believe our expenditures are on the order of $3.9 million on that monitoring-research work. We are looking again at the fiscal 1983 budget in terms of what we propose to do, and the exact dollar figure on that is yet to be worked out.

But I am sure that we will stay with whatever our treaty obligations are with respect to the monitoring process and the demonstration grant requirements that are in the Clean Water Act; I believe it is in section 108. But we certainly will meet those.

I am enthusiastic about the performance of our treatment plants along the Great Lakes in terms of phosphate removal and the studies that show reductions in phosphate levels. Many of the States have voluntarily taken on programs of using detergents that have lower phosphate concentrations, and I think it is a very strong move in the right direction in that respect.

Mr. NOWAK. On that phosphate problem, I wonder if you could have the staff look at establishing some incentives to get the other

States that are not on the phosphate removal program to come on board. I think the value of those who are "sacrificing" is just being overwhelmed by those who are not. I hope the administration will back some type of incentive or reward plan that would provide a phosphate removal plan in the the whole basin which is emptying into the Great Lakes.

Dr. HERNANDEZ. We certainly hope to work on that effort.

Mr. NOWAK. Thank you. Thank you, Mr. Chairman.

Mr. ROE. The gentleman from California, Mr. Clausen.

Mr. CLAUSEN. Dr. Hernandez, I believe that the last paragraph on page 9 of your testimony goes most directly to what I think is going to be the ultimate challenge that we will mutually have to share, and Chairman Roe alluded to it.

I would like to at least have you give more in the way of an expansion of these so-called administrative options that you are investigating now, and in particular the one with regard to the water quality basis of State priority systems.

Now, to what extent are you and the personnel in your agency going to be taking the initiative to extract from the States the State priority system? And then even more importantly, I would like to have you expand on the revision of the municipal management system.

Are you going to be extracting from those who are most knowledgeable about managing these wastewater systems in the municipalities the techniques that are now being employed—those that are working and those that are not working, and that sort of thing? Will you end up having a pretty good inventory of the pitfalls or the problems or the revisions that need to be taken as a result of this, and if so, could you expand on that briefly?

Dr. HERNANDEZ. I would be glad to, Congressman Clausen. Let me start in with the one that I think is the most significant of your questions, and this relates to State needs based on water quality.

This has probably been one of the shortcomings of our program in the past; that is, relating what we were actually doing to the water quality needs. Many States found it difficult; in drafting up these needs, they would look at the size of the community and say, "We need this sort of thing," and come with a dollar figure. But those figures were not necessarily related to those water quality needs, except where some kind of advanced wastewater treatment was the case.

We believe that starting now—and the first step is already underway; we met with State people in Denver this past week—we can initiate a State-operated, water quality-based analysis to determine what each of the State's needs are. I believe it will take 2 years for a comprehensive survey of that nature to take place. But I think it is possible and it is the kind of thing we have to do, if, in fact, we are going to base the allocation of these moneys on water quality needs.

So, I think that is the most important point that you raise, and it is doable. As I understand it from the people who met out there in Denver, the States received it welcomly.

Shall I go on about our municipal management systems?

Mr. CLAUSEN. Yes.

Dr. **Hernandez**. As you know, this is an effort on our part to cut down the time required to get everything done. We like to talk about doing things in a one-stop way where grants, permits, and enforcement all come under one roof.

I believe that our reorganization of EPA will help do that. We have put under the water program all of those elements now, and I think that will help enhance that part of the program.

With respect to what we have learned from each other, as you know there are fast-track States that have done a marvelous job of getting money out; they are meeting water quality needs. You would almost be led to believe that many of the things that we are proposing may be a disappointment to those States that have done the best job because they may end up with the least level of funding, because they have met those water quality needs. I recognize that as a criticism, but we have learned a lot.

We do have three or four forums with the States in which we try to exchange management information to help make it available to our region and to those other States in terms of management of their programs.

Mr. **Clausen**. What has been the extent of your contact with the States thus far, and how are they responding in terms of the recognized fact of life that they are going to have to be setting up a better prioritization within the confines of the State as a part of our overall national clean water program objectives?

Dr. **Hernandez**. I have met twice with people from SWPCA; this is the sanitary engineering group that represents each of the States. I have met with their executive committee once and their committee on construction grants, and both of these meetings, I think, have been excellent.

Certainly, they have some disagreements with us on some items in the administration bill. I would anticipate that there would be some of those areas. However, on the basic ideas that we are proposing of limiting the funding to treatment needs, I believe that we have substantial support from the States on these issues.

Mr. **Roe**. Will the gentleman yield on that point?

Dr. **Hernandez**. Yes, sir.

Mr. **Roe**. Would you explain for the elucidation of the committee what you mean by "treatment needs?"

Dr. **Hernandez**. As you know, we have proposed under the administration bill that certain project categories would remain eligible for finding, and these are I, II, and IVB; I and II are treatment needs. These are providing primary and secondary treatment and advanced wastewater treatment for those communities. Category IVB relates to those interceptors that lead to the sewage treatment plants and the appurtenances associated with them, that is, lift stations and things like that.

Mr. **Roe**. Will the gentleman yield further on that point?

Mr. **Clausen**. Yes.

Mr. **Roe**. I am smiling because it is easier to smile; it takes fewer muscles to smile than it does to cry.

Do you have any experience with what we refer to as combined sewers?

Dr. **Hernandez**. Well, I have to say, coming from New Mexico, we do not have any of those, but I am certainly familiar with the issue.

Mr. **Roe**. Well, I know you have a splendid educational and technical background.

It just absolutely astounds me. We now go through this same drill. This is now the fourth administration on reform, so to speak, and I do not mean it unkindly. Every time it rains in Boston or New York City or Paterson, N.J., I do not care if you spend $10 billion building a sewage disposal plant to meet treatment needs; the drain water picks up the sewage and puts it right back into the river again. This is true in Chicago and Philadelphia.

I cannot for the life of me understand how in God's name we are going to deal with the measurement of the water quality—and, believe me, I know whereof I speak technically—how we are going to go to the measurement of water quality on Monday and Tuesday and Wednesday when it is not raining and there is no substantial drainage going into the Delaware River.

Then we have the storms which we have had in the last 24 hours, which have scoured out all the sewers, and there is more crud in our rivers than there is in the sewage disposal plants. Every single administrative change that comes down, from before Nixon, when we speak of water quality and treatment needs—that crucial element is left out.

You are technically trained. Do you agree or disagree with me on the need to do something in eliminating combined sewers, if we are going to deal in water quality and measure water quality and allocate funds to the States on the basis of that water quality need?

Dr. **Hernandez**. Mr. Chairman, this is really a question of dollars, and let me say that I——

Mr. **Roe**. Well, then we should not fool the people, sir, and talk about water quality in the United States.

Dr. **Hernandez**. Yes, sir.

Mr. **Roe**. If we are talking about cutting back to the $24 billion over a 10-year period, you have got at least 10 to 12 percent inflation and you have got 18 percent per year costs in construction. So that means that you barely can cover inflation and increased costs of construction with the $2.4 billion.

So, if you were going to put up $2.4 billion in 1981—and pardon my enthusiasm—it would mean you would have to put at least $3.4 billion up in 1982 or 1983 for equal purchasing power. Do you see what I am trying to get at?

So, if we are going to say $24 billion is going to solve the problem in 10 years, there is not a chance in hell that it is going to do that. At the very minimum with all the austerity, we should be talking here at least $50 billion to meet the current fiscal costs and increases that are taking place. Otherwise, every single year we are going to be falling behind at least half a billion dollars in what they say would be allocated to the States in the first place.

And then we are saying we are going to try to draw the line, at $2.4 billion a year to keep up with the sewage and pollution control, without any expansion or growth taking place in any other place in the Nation. That is impossible. We know it is going to increase, unless there is a national calamity.

Pardon my enthusiasm, but I am trying to get that all out in a very constructive question to make one point. In effect, what has been testified to here today is that $2.4 billion, or $24 billion worth of needs over the next 10 years, is what the administration sees, and there is no flexibility whatever; it is $2.4 billion. At least that is what you have testified to so far.

Dr. HERNANDEZ. I said it was $2.4 billion this year, sir.

Mr. ROE. Well, did not Mrs. Gorsuch talk about $24 billion? I thought she said that.

Dr. HERNANDEZ. She said the needs today were $23 billion for those treatment needs—the Federal share.

Mr. ROE. Then am I led to believe that we are not, then, constrained by the $2.4 billion beyond this year, perhaps?

Dr. HERNANDEZ. I think that is one of the things you might want to look at. You might want to look at keeping the 1980 dollar——

Mr. ROE. I am asking you. I know what I would do. [Laughter.]

Dr. HERNANDEZ [continuing]. The 1980 dollar value constant, because that is what we have looked at and I think that is the kind of thing you are looking at.

Mr. ROE. Let me try to be a little less exuberant or pragmatic. If we are talking about a 1-year bill, which is what the administration has recommended, then what we are saying is that our needs for this year, as we see them the best we can at the moment, are $2.4 billion. But we are not going beyond that this year as to what that may translate to in 1983.

Dr. HERNANDEZ. That is correct.

Mr. ROE. Is that a fair commentary?

Dr. HERNANDEZ. That is a fair commentary.

Mr. ROE. So, the administration is simply saying, then, for the record that what we want to do here is go with the $2.4 billion. We are looking for other revisions that are going to take place and we are flexible if we need additional funding thereafter. Is that reasonable?

Dr. HERNANDEZ. I think that is correct.

Mr. HAMMERSCHMIDT. Would the gentleman yield on that point?

Mr. ROE. Of course, if the gentleman from California will yield.

Mr. CLAUSEN. I will yield to you.

Mr. HAMMERSCHMIDT. I am sorry; you had the floor.

Well, I was just going to put in my 2 cents' worth, or my $2.4 billion worth. I guess what we are trying to arrive at is efficiency, where you do not have too much reserve capacity, but yet you have enough reserve capacity to accommodate growth. That is kind of the bottom line of where we would all want to go, I assume, is it not, Dr. Hernandez?

Dr. HERNANDEZ. Yes, sir.

Mr. HAMMERSCHMIDT. So, as we have these hearings, that is the situation we would logically try to accommodate. This committee, in its wisdom, with your help and guidance, would try to arrive at the final point.

Thank you, sir.

Mr. ROE. If the gentleman would yield further, is the administration flexible enough on the merit of the case, assuming that logically and technically we can provide for the administration a legitimate reason because of what they are attempting to achieve in water quality improvement, to include as construction treatment needs the elimination of combined sewers?

Dr. **Hernandez.** I believe that the issue of treating waste from combined sewers is a legitimate treatment issue, and I think it has to be addressed somehow. Certainly, this is a very, very real problem, and how we do that could be taken under that general umbrella of——

Mr. **Roe.** If the gentleman would yield for one more point, New Mexico, in candor, is a relatively new State and they maybe did not commit the sins of the old States when they built America. If we are going to allow flexibility to a respective State, why should we not allow flexibility that is going to achieve the goal that we are trying to achieve, and that is improve the water quality?

It took 600 pounds of chlorine to treat 1 million gallons of water out of the Pasaic River for water supply this summer. Can you imagine that? You could almost walk across it as far as water quality is concerned, literally and figuratively.

So, we believe in our State that if we are talking about States' rights and States' cooperation, why should we not be allowed to make that decision in our own State rather than have this administration say that that is not a treatment need?

Dr. **Hernandez.** As I say, I think there is a legitimate issue here on the treatment of the wastes out of these sewers. I just do not believe there is really enough money in America to separate all of the combined sewers that we have. I believe that the $28 billion—the Federal share of doing this that has been set forth—is really an underestimate. I really believe that that one area alone is probably on the order of $100 or $200 billion, to separate all these sewers.

So, I think it is an issue of what we do with this money. It is a dollar issue.

Mr. **Roe.** Well, I am taking too much time, but I think it is a critical point. We are saying in the so-called revisions that we want to make—and this is very important to every member of this committee—that we are going to think about allocating these limited resources to those areas of the greatest need, and we are going to determine, in the main, the greatest need from water quality results we obtain.

If we are going to measure that over a 2-year period and then come back, I would respectfully suggest, depending upon what time of the year it is measured it would mean that some States that do not have these kinds of problems would not be eligible for any funding at all in relationship to other States.

Dr. **Hernandez.** I would hope that that kind of thing would be reflected in a State's needs; I really would. It is a legitimate water quality issue.

Mr. **Roe.** The gentleman from California.

Mr. **Clausen.** I will just add just a little bit to what the chairman has said. What he has really been focusing on is something that we have engaged in discussions on, Dr. Hernandez, with regard to the issue of the Water Resources Council, water resource development, and the linkage between the water quality and the water quantity issues.

What the gentleman from New Jersey has been stating is reflective and descriptive of the situation that exists in many of these areas, and there has been in many ways an inadequate water quality and quantity management system in place. And it is not going to work until we can clearly identify who is going to be handling those responsibilities. This is an increasing problem in the East, as we have viewed it.

So, I just want to conclude by saying that we really want to know more about those administrative options that are going to be considered for revision all the way through the process, because as I think Mr. Hammerschmidt was alluding to, we clearly have to come down on the side of what is the true Federal role.

We could do too much, to the point where they lose initiative; we could do too little, to the point where they are not assuming responsibilities. I think that is the real challenge in terms of the legislation that we develop, and then yours as an administration to make certain that the infrastructure of State and local government that has the responsibility for implementing the program will, in fact, be consistent and commensurate with the demands and the challenges that they must face.

That is going to take some real doing, because it has not occurred with all of the money that we have sent out there. Money, by itself, is not going to get the job done. By the same token, you can be pennywise and pound foolish, and we have to have sufficient funds to provide the carrot, but also along the line there has to be a stick of a sort that consistently moves these people toward meeting their responsibility, because they have not done it in the past.

Dr. **Hernandez**. Mr. Chairman, I would just respond to that last—I think you are absolutely right. We have been trying to help the municipalities to do these things through the grant process, and I think we can continue that in terms of treatment. But there will be a day when you have to say to them, It is your responsibility now, and you have had a long time period to meet these needs, and let us get on with it and do it.

One of the things that the chairman said earlier is that some cities may go on ahead and pay for their own treatment works. There is a paper that is due to come out by one of the oldtimers and great men in the field, Culp; I do not know if you know him; he has a fine reputation.

He says, on a hypothetical community, if you go out and spend the money today and you design it your way and build it to meet these standards, it may be cheaper than wading through this process of Federal grants and the constraints that are artificially imposed by planners who do not really have an involvement and do not have that kind of political structure base that you need to have; it may be cheaper to go on.

That is why I really believe that we have got to come out and tell people what we are going to do in the future, so they will know and they can plan and they can look ahead.

Mr. **Hammerschmidt**. Dr. Hernandez, that was the reason for the reimbursement feature that I asked about earlier, and wondered if it was working or if they were taking advantage of it. That seems to be a little bit contradictory to what you just said.

Dr. **Hernandez**. The reimbursement feature, per se, is almost a nightmare. I thought you asked about reducing the Federal grant down to a different percentage. The reimbursement issue, where a

State or municipality may go out and build something today and then try to get paid for it—trying to decide after the fact what was grant eligible is a very, very difficult process.

It also requires that money be there at some time down the line, which we do not have any assurance of. People who built these things prior to 1972 have still not gotten Federal funds. So, I really believe it is a kind of false promise to suggest that funds may in fact be there. I have told the people in my own hometown, I think you may be better off to go and rehabilitate your existing secondary treatment as you want to design it and not wait for the Federal Government to move. You are too low on the priority scale to get in there.

So, I really think that reimbursement after the fact is not a good idea. One of the ideas we might want to consider is the proposal to eliminate Federal funding for step 1 and step 2. Communities could go on ahead, do their initial planning and design and apply for Federal assistance for step 3. Then we could speed up the process, I think, tremendously.

Mr. **Hammerschmidt**. Dr. Hernandez, I wonder if we could suggest some language that might move in that direction, if we could find a consensus of agreement.

Dr. **Hernandez**. I would say that our staff is available to assist the members of this committee and their staff in any area like that at all. In terms of administration and acceptance of that, I think we would have to go down the line and look at it and see how these things come along.

But in terms of helping provide language that we could administer and give you ideas on what the positive sides and negative sides of any particular provision are, we would be delighted to work with you.

Mr. **Hammerschmidt**. Using your example of small rural communities, I do not know why that rationale would not be just as true for larger communities in many instances.

Dr. **Hernandez**. I think probably the best bet today is to abandon the rest of my testimony as being too long, to read to you gentlemen. I think we are enjoying this discussion right now.

But one of the things I said we might look at doing is redefining what secondary treatment is, and I believe we could do that administratively and make some real gains.

Mr. **Hammerschmidt**. I apologize; I forgot we were just on page 9.

Thank you, Mr. Chairman.

Dr. **Hernandez**. I do have some information on water quality, but I really believe we may be better off just to continue our dialog here.

Mr. **Roe**. Well, let me suggest something. Obviously, your testimony is stimulating these responses from us, and I think the testimony is good—not that we agree with you; I do not. [Laughter.]

But all that notwithstanding, you are bringing the issues out into clear perspective. I mean, these are decisions that have to be made. I mean, you have not sugar-coated them, and I think that is important.

I am thinking about the timeframe. We do want to get through this, and I am just wondering what we can do in the timeframe involved.

Dr. **Hernandez**. Mr. Chairman, let me tread on some dangerous ground with you and, rather than going on through my testimony, do something that the staff back here would just have a fit over, but I think it is appropriate to do. You know, you say let us talk about this in a very open way, and I think we ought to talk a little bit about the things that the administration does not believe we should have continued Federal funding for in the situation that we are faced with today of trying to reduce overall Federal obligations and set some kind of path for the future, because we have not talked about those things at all and I am sure you will hear testimony on them.

These things have to do with the control of infiltration and inflow; they have to do with new collectors, and they have to do with the CSO issue. I would be glad to talk about any of those.

Mr. **Hammerschmidt**. Mr. Chairman, let me make an observation, please. With all respect to our very distinguished witnesses, both of them this morning, we did not receive this testimony until this morning, and it is complex. For us to develop logical questions and to review it properly, we would hope that on the 29th, we would have more advanced notice in writing and that would be very helpful to us.

Dr. **Hernandez**. All right, sir.

Mr. **Roe**. The Chair is going to suggest that I think your testimony is that important to this committee, and I think it is setting the stage for at least the administration's viewpoints, at least as we see them.

I am going to recommend to the committee that we would take an hour's recess and reconvene, say, at 1:15, and then pick your testimony up from there. I think the way you have gone through it, giving us a chance to stop part way through and get into an exchange of views—we can do that, and I think we ought to spend the time on that.

Dr. **Hernandez**. All right, sir.

Mr. **Roe**. The committee, therefore, will recess until 1:15. We will reconvene then at that time.

Dr. **Hernandez**. Thank you.

[Whereupon, at 12:10 p.m., a luncheon recess was taken.]

## AFTERNOON SESSION

[The subcommittee reconvened at 1:15 p.m.]

Mr. **Roe**. The meeting of the Subcommittee on Water Resources on the Water Pollution Control Act will come to order.

When we recessed, Dr. Hernandez, we were about to start on page 10; we had concluded the first-phase dialog and exchange of views on the first part of your testimony.

Now, if you want to proceed from there on "Trends in Needs."

Dr. **Hernandez**. Thank you very much, Mr. Chairman. Unfortunately, my numbering system differs just a little bit from yours.

Mr. **Roe**. I have observed that.

Dr. HERNANDEZ. You know, you have got to use a few tricks to throw off the chairman, throw him off the scent here. And I will ask the staff behind me to kind of keep track of this with respect to the full testimony.

We are addressing again the administration's views for need for reform, and I will pick it up at that point.

Escalating cost estimates represent the major crisis which now confronts the construction grants program.

Mr. ROE. What page are you on?

Dr. HERNANDEZ. It would be about page 10 or 11—I threw out some other stuff. He will pick you up on that. It should say "Need for Reform" probably as a headline.

Mr. ROE. As a headline, yes.

Dr. HERNANDEZ. The administration's proposed reforms for the construction grants program are geared to meeting the challenges of escalating needs and dwindling resources. Our basic strategy is to emphasize cost effectiveness in analyzing the best water pollution control use for the limited funds available.

Changes in the program contained in this proposal would limit grant eligibility to categories of projects designed to significantly improve the quality of the receiving waters and would eliminate Federal funding for projects or portions of projects which are designed to accommodate future community growth. Also included are amendments to redefine the approach for certain set-asides now required out of each State's allotment and to eliminate eligibility for reimbursement of the Federal share of new projects constructed without a Federal grant.

In addition, the draft bill establishes a new formula for computing the grants to States for administration by tying it to the actual workload of a State for fiscal year 1982 and beyond.

Mr. ROE. We are lost again.

Dr. HERNANDEZ. OK, sir. Maybe I ought to share a copy of mine with you. I think it's on about page 14. I tell you what I might do is give copies of my testimony. Is there a Xerox machine nearby—it's only about 10 or 12 pages—and that might help prevent that from happening.

Mr. HAMMERSCHMIDT. I believe we could follow you if we can once get picked up. Let me just reemphasize another point, perhaps for the benefit of your staff as much as anybody—for us to receive testimony just a few minutes before the hearing, and then also with all these inserts and everything, it really does make it hard for us to digest rapidly.

Dr. HERNANDEZ. I know that problem about trying to follow it. The first time that I testified before a committee I had all of those pictures in between, and I had the darndest time in the world trying to keep track of where I was.

Mr. HAMMERSCHMIDT. I guess the major point I am trying to make is that we need to get testimony well in advance.

Dr. HERNANDEZ. Yes, sir. I think the chairman now has a copy of it, and they are making more copies.

Finishing up that particular section, we just said that the set-asides were some of those issues. The next section starts, and it is called "Administrative Initiatives," and the first major topic heading under that is "Innovative and Alternative Set-Aside."

To achieve a more cost-effective targeting of program funds, your subcommittee, Mr. Chairman, demonstrated an impressive degree of foresight in developing the innovative and alternative and rural alternative approaches to municipal treatment. This subcommittee initiated these two programs which, as shown by experience, you should be proud of. Not only do these approaches promote cost effectiveness in the use of funds, but rural alternatives, in particular, address the difficulties encountered by small communities.

EPA strongly supports the innovative and alternative set-aside program. They have been in operation for approximately 3 years, and I am pleased to report that the results to date are by and large encouraging.

As of March 31, 1981, 675 projects have been approved employing alternative technologies, and 140 have been approved with innovative technology. The total step No. 3 construction grant value of the innovative and alternative portions of these projects are more than $800 million. The portion of these projects using innovative and alternative technology represents about $24 million and $66 million, respectively.

With regard to the alternative technology projects, most of those approved are in smaller communities. Examples of the treatment strategies adopted include land treatment facilities, community septic tank and drainfield systems, and onsite treatment.

With respect to innovative technology approaches, a variety of technologies have been accepted for funding. Among these are a special activated-carbon process for treating municipal waste water with a high industrial component, a unique screening process for removing algae from waste water treatment pond effluent, and an oxygen-fed fluidized bed unit for biological treatment of waste water.

We are continuing to encourage consulting engineers to accept the challenge and opportunity to be truly innovative.

The next piece on this section deals with the rural alternative projects in small communities.

As of March 31, 1981, approximately 83 rural small communities have been awarded grants totaling $99 million for design and construction of alternative technology systems. Over 100 additional projects will draw on the 4-percent set-aside funds.

In dealing with small communities, many of which are rural, it is clear that there are special problems differing from urban areas. EPA recognizes that small communities generally do need seed money to get a project scoped and underway. Some communities cannot afford to operate and maintain any conventional centralized waste water system even if installed at no local cost.

### DELEGATION

Delegation reflects a momentous decision by your subcommittee, Mr. Chairman, to put as much of the authority and control as possible back into the hands of State and local governments.

Increased emphasis on delegation of day-to-day program responsibilities to States represents the most important shift in the construction grants program that resulted from the 1977 amendments.

The Agency has moved aggressively on this front, and I would like to review with you our experience in this area.

Grants to the States under section 205(g) have been awarded to 41 States to date; 45 States and territories are expected to sign agreements by the end of fiscal year 1982.

In 1982, approximately 80 percent of the direct project workload activities will be done by the States and by the Corps of Engineers. EPA will be primarily in a program management role.

In discussing delegation to a State, it is important to stress that delegation takes place over a period of time after the initial grant is made.

Mr. HAMMERSCHMIDT. May I interrupt there?

Dr. HERNANDEZ. Yes, sir.

Mr. HAMMERSCHMIDT. You have different figures in your testimony than we have in ours. In grants to States under 205(g), we have 42 States and territories to date, and 46 States and territories are expected to sign.

Dr. HERNANDEZ. I think that is the correct number.

Mr. HAMMERSCHMIDT. You think we have the correct number?

Dr. HERNANDEZ. You have the correct number, yes, sir.

Mr. HAMMERSCHMIDT. Well, we can correct that for the record, then.

Dr. HERNANDEZ. Yes, sir. In discussing delegation to the States, it is important to stress that delegation takes place over a period of time after the initial grant is made. Each delegation agreement constitutes a contract that the State will assume the management of the program in accordance with an activity- and date-specific schedule based on the capability of the particular State to assume the various program responsibilities.

To insure that the States are hiring qualified personnel prior to signing an agreement, each State must do an in-depth study of organization and staffing needed to operate a delegated program.

Both the States and EPA are concerned that there be continuity in funding for delegated activities. Therefore, EPA has taken a number of steps to minimize possible disruptions to State management should there be a delay in the fiscal year 1982 appropriation. This includes accelerating the grant award of section 205(g) grants and grant amendments to those States experiencing short-term funding problems in an attempt to prevent program disruption during fiscal year 1982. However, the President's legislative reform has been well received, and we expect that enactment will proceed expeditiously through the congressional process and be in place before the start of the fiscal year.

I will stop at that point and answer any questions that you may have, Mr. Chairman.

Mr. ROE. Go ahead.

Dr. HERNANDEZ. We are entering into quality control and plant performance.

Program efficiency involves quality control on a number of different levels, from Federal to State to local. The local project level, where individual plants are actually built and operated, is really the working end of the program. Over the history of the program, a number of quality control mechanisms have evolved.

During the course of late 1979 and early 1980 EPA developed the national municipal policy and strategy and the municipal management system. The purpose of these systems is to integrate permit, enforcement, and construction grant activities in order to expedite construction and increase compliance.

One way to evaluate the construction grants program is to measure the absolute improvement in water quality. Unlike evaluating the progress in bringing operating facilities on line, this requires historical monitoring data. EPA's monitoring efforts, although continually improving, have not been as good as we would have liked under technology-based treatment requirements where there is no link to water-quality results. We are now making that link. Long-term, reliable, comprehensive national water quality data are needed as a basis for comparative analysis of the effectiveness of our cleanup efforts.

In understanding plant operation, it is important to distinguish between compliance and performance. The quality of effluent that a waste water treatment plant is permitted to discharge into receiving streams is governed by standards that are established in its national pollutant discharge elimination system; that is, the NPDES, permit which, in turn, are based on statutory plant performance requirements.

Compliance relates to NPDES permit requirements. It is a measure of how well a plant meets its established effluent limitations during the prescribed monitoring period.

Performance, on the other hand, is a gage of a plant's efficiency, measured by the annual average of the quality of a plant's discharge and the total volume of pollutants removed. This gives some indication of the long-term impact on the receiving waters.

There does exist a clearly discernible trend over the last decade of improved pollution control through municipal waste water treatment efforts. Today 157 million people, about 70 percent of the 1980 population, are being served by municipally owned waste water treatment plants receiving 25.3 billion gallons per day.

I am going to skip a couple of lines. From 1972 to 1980 the population increased by 18 million people while the flow into municipal treatment plants increased at a greater rate, to 7 billion gallons per day. Yet we have held the line on degradation with no change in dissolved oxygen and fecal coliform nationally in spite of the loadings on the municipal plants that have increased since 1972 by 40 percent, to 42,000 metric tons per day. The percent of pollutants removed nationwide has increased from 70 to 78 percent. The percent of the U.S. population served by secondary treatment levels or better has increased from 41 to 50 percent.

Measures of plant performance indicate that there has been a dramatic improvement in performance during the 1975–80 period. The percentage of treatment plants meeting or exceeding secondary standards on an annual basis has increased from 40 percent in 1975 to more than 75 percent in 1980.

In regard to projects developed prior to 1972, often referred to as "old law" projects, those projects in some instances were designed to meet treatment levels less stringent than those subsequently required by the 1972 act. In many cases the projects either were in the process of construction or were just coming on line after enactment of the 1972 law. Permits issued to these projects reflected the more stringent 1972 requirements, requirements which were not in existence when the projects were designed. Therefore, "old law" projects, in many cases, could be meeting their design level of performance but still not be in compliance with their permits. More than 78 percent of these plants are in compliance with their permits, however.

EPA is in the process of working with the remaining communities to bring them into compliance with the statutory requirements. The fact that these plants are in place and operating has, however, begun the process of improving the quality of the receiving waters.

Another area of concern for the program is increased emphasis on effective and efficient operation and management of waste water treatment plants. The agency has been encouraging the development of self-sustaining utility operations and the adoption of adequate and equitable user-charge systems which generate sufficient revenues to permit proper plant performance. Potential sources of funding include 205(g) funds and section 106 of State grant assistance funds for training plant operators.

I will quit at this point, Mr. Chairman. I have one piece of good news that I have not incorporated in there that has come to us fairly recently. It's a very recent report on the performance of treatment plants, and these are the 92-500 plants, those built under the Water Pollution Control Act, with respect to their compliance and ability to comply. And I will give this to your clerk for the record—but it shows that 82 percent of the completed 92-500 treatments were at compliance with their permits in the first quarter of fiscal year 1981, and I think that is good news.

And while there is a difference between compliance and performance, as I pointed out, this says that they are doing a pretty darn good job out there at this time.

So I think in response to some of the criticism, people may have moved on some.

Shall we just proceed? OK.

[The following was received for the record:].

COMPLIANCE STATUS OF CLEAN WATER ACT TREATMENT PLANTS

| | Total Major & Minors 92-500 & Amends in Operation 1st Qtr. FY81 | Total Major & Minors In Compliance 1st Qtr. FY81 | % Major & Minors In Compliance | |
|---|---|---|---|---|
| TOTALS | 1659 | 1364 | 82 | |
| REGION I | 123 | 97 | 79 | Majors and Minors |
| Connecticut | 18 | 9 | 50 | |
| Maine | 27 | 19 | 70 | |
| Massachusetts | 21 | 17 | 81 | |
| New Hampshire | 24 | 21 | 88 | |
| Rhode Island | 7 | 6 | 86 | |
| Vermont | 26 | 25 | 96 | |
| REGION II | 88 | 76 | 86 | Majors and Minors |
| New Jersey | 14 | 14 | 100 | |
| New York | 61 | 54 | 89 | |
| Puerto Rico | 13 | 8 | 62 | |
| Virgin Islands | 0 | 0 | 0 | |
| REGION III | 131 | 99 | 76 | Majors and Minors |
| Delaware | 4 | 4 | 100 | |
| Maryland | 10 | 6 | 60 | |
| Pennsylvania | 84 | 58 | 69 | |
| Virginia | 26 | 25 | 96 | |
| West Virginia | 7 | 6 | 86 | |
| Dist. of Columbia | 0 | 0 | --- | |
| REGION IV | 191 | 161 | 84 | Majors and Minors |
| Alabama | 27 | 22 | 81 | |
| Florida | 17 | 14 | 82 | |
| Georgia | 38 | 29 | 76 | |
| Kentucky | 16 | 13 | 81 | |
| Mississippi | 2 | 1 | 50 | |
| North Carolina | 48 | 42 | 86 | |
| South Carolina | 24 | 24 | 100 | |
| Tennessee | 19 | 16 | 84 | |
| REGION V | 373 | 286 | 77 | Majors & Minors except Ind. |
| Illinois | 91 | 75 | 82 | |
| Indiana* | 32 | 27 | 84 | *No compliance info. on Minors, Minors not included for Indiana |
| Michigan | 80 | 59 | 74 | |
| Minnesota | 22 | 15 | 68 | |
| Ohio | 88 | 60 | 68 | |
| Wisconsin | 60 | 50 | 83 | |
| REGION VI | 36 | 21 | 58 | Majors only |
| Arkansas | 5 | 4 | 80 | Minors information not |
| Louisiana | 3 | 2 | 67 | summarized |
| New Mexico | 2 | 1 | 50 | |
| Oklahoma | 14 | 6 | 43 | |
| Texas | 12 | 8 | 67 | |
| REGION VII | 445 | 395 | 89 | Majors and Minors |
| Iowa | 88 | 78 | 89 | |
| Kansas | 140 | 135 | 96 | |
| Missouri | 118 | 93 | 79 | |
| Nebraska | 99 | 89 | 90 | |
| REGION VIII | 51 | 40 | 78 | Majors Only |
| Colorado | 15 | 11 | 73 | |
| Montana | 6 | 4 | 67 | |
| North Dakota | 9 | 9 | 100 | Region has no compliance |
| South Dakota | 7 | 7 | 100 | information on minors |
| Utah | 8 | 5 | 63 | |
| Wyoming | 6 | 4 | 67 | |
| REGION IX | 156 | 139 | 89 | Majors and Minors |
| Arizona | 25 | 22 | 88 | |
| California | 111 | 97 | 87 | |
| Hawaii | 5 | 5 | 100 | |
| Nevada | 13 | 13 | 100 | |
| Am. Samoa | 0 | 0 | --- | |
| Trust Terr. | 1 | 1 | 100 | |
| Guam | 1 | 1 | 100 | |
| REGION X | 65 | 50 | 77 | Majors Only |
| Alaska | 11 | 8 | 73 | No information on Minors |
| Idaho | 13 | 9 | 69 | for entire Region |
| Oregon | 28 | 22 | 79 | |
| Washington | 13 | 11 | 85 | |

SOURCE: Information phoned to Headquarters from Regional Grants/Enforcement Staffs.
MAJOR DISCHARGER - Existing flow equal to or greater than 1 mgd
MINOR DISCHARGER - Existing flow less than 1 mgd

June 26, 1981
Facility Requirements Division
Office of Water Program Operations

**Dr. Hernandez.** Water quality. We are nearing the end of the first decade of implementation of the Federal Water Pollution Control Act Amendments of 1972 which set the construction grants program in motion, and simultaneously established the goals and framework for controlling all forms of water pollution.

The 1972 act changed the emphasis from the earlier water-quality-based control approach to a technology-based approach. The act calls for a base level of uniform discharge limits representing the technological and economic capabilities of similar categories of dischargers, to be supplemented by more stringent water-quality-based controls necessary to meet water quality standards.

How well has this technology-based approach worked? Has it resulted in reduced pollution and improved water quality? The answers to these questions depend on measuring the actual quality of rivers, streams, and effluents through water-quality monitoring programs.

State and Federal monitoring programs assess water quality in ~~several~~ different ways, including stream surveys, field stations, and biological assessments. These data are collected and analyzed, and reported biennially by the States in their section 305(b) water quality inventory reports to EPA and the Congress. The responsibility for monitoring water quality rests primarily with the States, with guidance and assistance from EPA, and support from other Federal agencies, such as the U.S. Geological Survey. These monitoring efforts, while continuously improving, have not been as good as we would like. Nevertheless, we have been able to obtain very useful information about water quality trends and problems.

The first conclusion to be drawn is that the technology-based controls, coupled with the construction grants program, have resulted in substantial reductions in the amounts of pollutants that otherwise would have entered the nation's waters.

The second conclusion is that actual water quality is beginning to show some improvements in conventional pollutants to parallel the trends in effluents.

The third conclusion is that while it is difficult to find significant improvements on a national scale, there are numerous local examples of improved water quality, particularly in areas where POTW effluents have been improved. These local success stories are the most heartening aspect of our cleanup programs, since many of our water quality problems are very localized in nature.

I have mentioned the need to set priorities, several times. I want to explain why I think this is important.

In 1972, the highest priority was on implementing at least some minimum controls to begin attacking what was then a widespread problem. Short of the complex imprecise water-quality-based controls then available, there were no easy ways to address the problems. We needed administrative mechanisms with some commonsense approaches to let dischargers know what they need to do and provide funding incentives and enforcement sanctions to make sure that dischargers do their part.

The 1972 act provided the way to attack the problem.

We are now left with problems that are less amenable to uniform national solutions. By 1983 we will have issued most of the additional technology-based controls that make sense from a cost-effectiveness standpoint. Yet even when these controls are in place, there will continue to be localized point and nonpoint source problems involving toxics, nutrients, and conventional pollutants.

The only approach that makes sense after controls are in place is to keep the technology-based controls as a floor and shift to a more decentralized water-quality-based approach aimed at hot spots of most concern. States will need to take the responsibility for monitoring and analyzing their water quality problems and to use the results to establish priorities for additional controls.

We do not want to be in the position of spending limited construction grant funds, for instance, and finding later that we have not addressed the most crucial water quality problems. We therefore need to improve State and EPA monitoring programs to be able to identify and characterize water quality problems, to help develop appropriate levels of control, and to assess systematically and routinely whether cleanup programs are effective.

Mr. Chairman, we have covered a wide range of related areas in the construction grants program today. We have discussed vital areas of the program in need of reform, and the administrative actions to which EPA is committed as a complement to essential legislative reforms. We have also addressed some tough questions as to quality control and performance, and, perhaps most fundamentally, the issues relating to water quality improvement.

The areas you emphasized in your letter of invitation included the current status of the construction grants program, the need for legislative changes in water pollution control, and the effectiveness of efforts to improve water quality. In discussing the wide range of areas that I have touched on today, I have made an effort to answer your questions in some detail. I think it useful to step back and leave you with some general thoughts about the issues we have addressed.

The administration is firmly committed to making the construction grants program work. There is no question that the goals of the Clean Water Act are just as critical and essential today as they were 9 years ago. The challenge that faces us is how to achieve these goals in the context of greatly increased needs and significantly fewer resources.

One of the areas we are now focusing on is quality control and plant performance. To insure the maximum return on every dollar spent we have to make certain that facilities meet their design specifications and achieve their pollution reduction goals.

Another area on which we are concentrating is administrative reform. To promote greater flexibility and increase efficiency and effectiveness, the States must take on a larger role. To make sure that every dollar invested yields the maximum in pollution control, we will continue to strongly encourage the rural and innovative and alternative approaches. They have worked well, and municipalities stand to gain by implementing it.

Finally, Mr. Chairman, the most essential element necessary to assure that this program functions effectively is the administration's legislative reform package. These proposals were developed only after careful thought and consideration.

The administration is proposing streamlining the construction grants program so that it is aimed at meeting water quality needs.

To do this, it is absolutely critical that the limited funds be focused on the highest priority pollution control needs. This money must be spent where it will achieve the greatest degree of pollution reduction. Only in this way will the country get the maximum returns on its dollars and the largest impact in pollution control.

This concludes my statement. I would be glad to answer questions that you may have, Mr. Chairman.

Mr. **Roe**. Well, Dr. Hernandez, thank you for a very comprehensive presentation. We, as Congressman Hammerschmidt pointed out, will be going over this in detail and looking to discuss with you in more depth on your return next week.

I don't have any other additional questions at this time. Do you, Mr. Hammerschmidt?

Mr. **Hammerschmidt**. No, I don't have any questions. Let me make a comment here.

You know, the Washington Post in May ran a series of articles on the success of this program, and, quoting from one of those articles, it says:

> The Federal Government, after spending $30 billion on the country's largest public works program in recent history still has no reliable way to measure the impact of thousands of modern sewage treatment plants on national water quality. The absence of accountability in a program that represents the country's front-line defense against water pollution is startling and revolves around the fundamental question: Is the water any cleaner?

They go on to say:

> The Environmental Protection Agency doesn't know, the U.S. Geological Survey doesn't know, the top quality water quality experts in the country don't know. Most of all, Congress, which has spent the $30 billion, doesn't know.

I mention that because there are probably some great differences of opinion on those statements I just read from that newspaper article, and we won't have to have all that refutation in the record today, but these concerns, which are left out there as a perception by the public as a result of articles like this, I think need to be straightened out during the course of these hearings, and we want to have the opportunity for responses to that general indictment on the Agency.

Dr. **Hernandez**. Congressman, I think that you have brought up one of those good points. I think you have noticed a couple of times I have hedged and said that our monitoring ability is not what we would like—and that is the truth. We really need to work on improving that, because if we are ever going to answer that one criticism that is in there that some of us don't know how good a job we have done, part of it rests back there on that fundamental basic information that we haven't developed and haven't had, and we need to work with the other Federal agencies and, more particularly, with the States in developing a better monitoring system.

That's a really good point.

Mr. **Hammerschmidt**. Thank you, sir. I have no more questions.

Mr. **Roe**. The gentleman from Minnesota.

Mr. **Oberstar**. Thank you, Mr. Chairman. You have given us, Dr. Hernandez, a very comprehensive review of the program which raises a great many questions I would like to go into. But we are going to get another crack at this questioning process on another date, so I will reserve the balance of my questions.

But I do have this question about innovative and alternative technology.

Now, your testimony recognizes that it accomplished a great deal, that it has achieved, in most of the States, results that Congress intended for it—and for that I am sure our ranking member on the full committee, Mr. Clausen, would be very happy, because he was one of the principal advocates of this provision. And then you come around and hint, well, it's a real problem here, lack of flexibility for a State to manage construction grant funds, and we want to make this discretionary.

Well, now, let's picture a little city with the engineer coming up to the city and saying, you know, you can go two ways: You can do something innovative and alternative, and can get a little bonus from the Federal Government for doing that, and it's going to cost this much and it's going to take quite awhile to do that; but, on the other hand, right here in my briefcase I have this handy-dandy packet of ready-to-go pollution treatment plant plans we can do in a very short time. Which way is the city going to go?

By giving discretion—and that has become a catch word and a trigger word, and it's a mask—it's a mask for a means of getting rid of programs. And, frankly, I am not going to mince any words about it; that's what my concern is, it's what's happened in the past, not under this administration, it's happened under other administrations—and it is going to happen under this administration if we go that way.

So let me just lay that on you straight.

Dr. HERNANDEZ. Let me be very candid with you, Congressman Oberstar. When I first came to EPA as its Deputy Administrator I was very suspect [sic] of the I. & A. program. I had a lot of reservations. You know, my belief is that in the past what we have been building in sewage treatment plants—and I think that Chairman Roe, having had a lot of experience out in the field—was we were building Model A's out there. I worked for a State agency, and when I was there, we—one thing: Trickling filters. It was the one thing we knew that those people could operate and not foul up; and anybody who came in with any kind of another idea, we ran them off, because that was what we trusted and knew would work, as far as secondary treatment is concerned.

So my view, my personal view, of I. & A. was a very suspicious one. I spent some time talking to engineers from many of the leading companies, to people who build the equipment, to our own staff, and then looked at some of the figures and the kinds of things that people are doing out there. And I swung around the other way.

And my testimony, when it says that I firmly support this, I do. And I believe—you know, it's easy to be suspicious of the objectives of an administration, but I think we are going to go out there and help and encourage these people to build this sort of thing and take advantage of new technology that is available rather than—and some other alternatives—rather than stick with activated sludge plants and so on.

So you have my concern with you that we not abandon it.

I think the whole thrust of the President's bill, though, is to put the decisionmaking on the State people and on the community people to give them that kind of flex that they need.

Mr. **Oberstar**. I am very pleased, and that is a splendid testimonial of openness and openmindedness. And I hope that that attitude will persist. And we will labor with you in the time that you are in that position.

And it is not a question of being suspicious of the objectives, but the effect of objectives of the administration. And my concern is, in giving so-called, quote, flexibility, that the result will be quite other than what we in this committee have desired.

Perhaps there is a way to come around that. But I am glad to hear that, and I appreciate your candid statement.

Dr. **Hernandez**. Thank you.

Mr. **Roe**. Are there any other questions, gentlemen? If not, Dr. Hernandez, we want to thank you very much for your appearance—and I think it was very comprehensive; you have a definitive approach.

As soon as we have a chance to talk to our other people during the rest of this week, then we will be looking forward again to getting together with you.

So the subcommittee now will recess until tomorrow morning at 10 o'clock, and we will continue our deliberations.

Thank you very much for being with us.

Dr. **Hernandez**. Thank you, sir.

Mr. **Roe**. We are recessed.

# HOUSE DEBATE ON H.R. 2957

*May 28, 1981*
(Congressional Record, vol. 127, part 8, 10908-10915)

## ELIMINATION OF THE LIMITATION ON INDUSTRIAL WASTE TREATMENT

Mr. EDGAR. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2957, to amend the Federal Water Pollution Control Act to delete the limitation on the use of public treatment works grants for treating, storing, or conveying the flow of industrial users into treatment works, as amended.

The Clerk read as follows:

H.R. 2957

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 201(k) of the Federal Water Pollution Control Act (33 U.S.C. 1281(k)) is hereby repealed.

Sec. 2. (a) Section 205(c) of the Federal Water Pollution Control Act is amended by striking out "ending September 30, 1981," and inserting in lieu thereof "ending September 30, 1982," and by striking out "and September 30, 1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982,".

(b) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1981" each of the two places it appears and inserting in lieu thereof at each such place "1981, and 1982".

Sec. 3. (a) Section 202(a)(2) of the Federal Water Pollution Control Act is amended by striking out "1981" and inserting in lieu thereof "1982".

(b) Section 202(a)(4) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981." and inserting in lieu thereof "September 30, 1981, and September 30, 1982.".

(c) Section 205(l) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982," and by striking out "fiscal year ending September 30, 1981," and inserting in lieu thereof "fiscal years ending September 30, 1981, and September 30, 1982,".

Sec. 4. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.".

Sec. 5. This Act, and the amendments made by this Act, shall not apply to any fiscal year which begins before October 1, 1981.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania (Mr. EDGAR) will be recognized for 20 minutes and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2957, as reported, repeals the so-called industrial cost exclusion provision of the Federal Water Pollution Control Act which was added to the law by Congress last year. The industial cost exclusion provides that Federal construction grant funds cannot be spent on those portions of publicly owned wastewater treatment works which provide industrial users with treatment capacity. H.R. 2957 would restore grant eligibility for this portion of the construction grants program.

The industrial cost exclusion section in the legislation last year was the result of a compromise. Because we wished to give Congress another chance to look at the provision, we delayed its effective date until November 15, 1981. Thus, after November 15, 1981, no grant funds may be used to finance the physical construction of that part of a publicly owned treatment works that treats, stores, or conveys wastes from industries which discharge into the system more than 50,000 gallons per day of sanitary waste equivalent. In the interim, we required the Environmental Protection Agency to do a study of the effects of the industrial cost exclusion.

While the EPA study does not make specific recommendations, its findings point out the potential burden of the provision on industries and municipalities. The study shows that there are a large number of communities which would find portions of planned projects suddenly ineligile for grant funds. This would increase the local costs of completing these projects, sometimes drastically. Nationwide, the non-Federal share of projects in these communities which might have been built in the next few years would increase an estimated 61 percent. In many cases, communities and industries may not be able to raise the money necessary to finance this increased local share. The study suggests that in this situation many communities will simply do nothing and await possible enforcement actions. Furthermore, the study suggests that the costs of delay—caused by the need for cities to renegotiate their agreements with their industries—are likely in the near term to exceed the amount of grant funds which are made ineligible under the industrial cost exclusion. In the opinion of community and industry leaders surveyed by EPA, the industrial cost exclusion, even though it does not go into effect until November 15, is already causing an "impasse" in many communities, causing some to hold back on their projects and thus delay realization of our Nation's clean water goals. These findings were supported by testimony received at our hearings.

H.R. 2957, as reported, also contains two other sections extending provisions of the Federal Water Pollution Control Act that will expire this year without congressional action. Section 2 of the bill extends the existing allotment formula for distributing construction grants funds to the states. Section 3 extends the existing set-aside of 3 percent of each State's allotment for use on systems incorporating innovative and alternative technologies. Inclusion of these provisions in this bill establishes the basis for our further consideration of these and other matters concerning the construction grants program this year. We intend to hold further hearings on the construction grants program soon with a view toward making changes in these and other provisions governing the program which will insure that the greatest possible amount of pollution reduction will be achieved for every Federal dollar spent.

□ 1130

Mr. Speaker, I yield such time as he may consume to the chairman of the full Committee on Public works and Transportation, the gentleman from New Jersey (Mr. HOWARD).

(Mr. HOWARD asked and was given permission to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, I wish to commend this bill to the Members of the House. I wish to thank the gentleman from Pennsylvania (Mr. EDGAR), who is handling this bill today in behalf of the chairman of the Subcommittee on Water Resources; the gentleman from New Jersey (Mr. ROE), who is unable to be with us today; and to thank the ranking minority member, the gentleman from Arkansas (Mr. HAMMERSCHMIDT). I wish to thank all the members of the subcommittee and their staffs for their work in preparing this legislation for the House today.

I wish also to extend my thanks to the ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN) for his usual helpful cooperation.

The Water Resources Subcommittee recently held hearings on the industrial cost exclusion, during which a large number of cities, industries, trade and professional associations, and the Environmental Protection Agency were heard. The overwhelming consensus of those who appeared is that the industrial cost exclusion should be repealed. With the study which we required the Environmental Protection Agency to prepare for us, and the other information we have received since last year, we now have a good idea of the impact of the exclusion upon the industries and cities which find themselves partners in the task of upgrading our Nation's waters.

I will not attempt to summarize the total factual record in support of repeal. It is too vast. I will only cite three facts which to me are central. First, the industrial cost exclusion will work a real financial hardship on many communities, which suddenly, contrary to all previous planning, will now have to raise the money to replace the funds which are to be excluded. Second, something worse than just hardship is a reality for several communities. For them, particularly some small communities with marginal industries, the industries have indicated they will be forced to close down or move away. Third, the EPA study shows that we will not likely be saving any money with industrial cost exclusion. This is because, by requiring cities to go back to their industries and renegotiate their treatment agreements, redesign projects, and raise new revenues, we are causing delays which will because of inflation, eliminate any savings anticipated from industrial cost exclusion.

Mr. Speaker, all of the information we have leads to only one conclusion. The industrial cost exclusion provision is disruptive, ineffective, and is not economical, and I urge passage of the bill.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN) for a short colloquy.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I would like to commend the distinguished chairman of the Committee on Public Works and Transportation for his work on this Clean Water Act legislation. I would like to ask the gentleman from New Jersey a question concerning the relationship of this bill to the pressing need for reform of the EPA construction grants program.

The gentleman is aware that the administration will not request appropriations for this program in fiscal year 1982 unless the Congress acts on reform. Funds must be directed where they are needed most. Our committee has been holding, and will continue to hold extensive hearings on construction grants problems. Can you tell me your timetable for addressing the relevant reform issues from a legislative perspective?

Mr. HOWARD. I do share the gentleman's concern, and I would like to state very clearly that this legislation is not the end of water pollution control legislation in this Congress or possibly in this session of the Congress. As the gentleman is aware, our Oversight and Review Subcommittee has already held hearings to get information as to how we could improve this program in its entirety; and also the gentleman and I together have introduced by request the administration's legislation on the construction grant program referred to as H.R. 3703.

I share the gentleman's concern. Let me assure the gentleman that passage of this bill does not, and will not, preclude us from acting further on this matter. It has been our intention for some time to hold extensive legislative hearings on the construction grants program and we plan to start these hearings very soon. We will exert every effort to report legislation, get it through the House, and reach an agreement with the other body in time to insure that funding for this program will be considered for fiscal year 1982. It is our goal to develop legislation which will make the construction grants program more efficient and cost effective so that the maximum amount of pollution control is achieved with the resources which will be available.

Mr. CLAUSEN. I thank the gentleman, because the faster we can achieve reform, in my view, the sooner additional funds will be available for the construction grant program which many people are looking for.

Mr. Speaker, I rise in support of H.R. 2957 and urge my colleagues on the floor of the House to join me in sending this legislation to the Senate.

The bill before us has a history which goes back more than 5 years to the original industrial cost recovery, or ICR, provision of the Clean Water Act. I will not dwell on that history except to say that last Congress we repealed the industrial cost recovery provisions of the Clean Water Act because of overwhelming evidence that they were not effective in accomplishing their legislative objectives.

The ICE provision we address today was adopted as part of the compromise that was struck in order to remove the ICR provision from the law. Many of us in the House, at the time the ICE provision was passed last October, expressed our serious reservations about the adverse effects that it was likely to have on our Nation's clean water program. Unfortunately, I am afraid that the events of the ensuing months have proven that the reservations we raised last year were probably well-founded.

We have had the benefit of an in-depth study performed by the Environmental Protection Agency on the likely effects that ICE will produce on our construction grants program. EPA's study provides overwhelming evidence to support repeal of the ICE provision. Similar strong evidence was received in 2 days of hearings held by our Subcommittee on Water Resources, during which virtually unanimous testimony—not just from industries, but also from municipalities and States and professional organizations—was presented in favor of repealing ICE.

Allow me to emphasize just two points.

The first is that repeal of ICE is not something supported only by industry. Of the more than 120 comments that EPA received on its ICE study, 95 percent opposed implementation of ICE. Only 6 of the comments could be characterized as favorable toward ICE, and not all of these went so far as to actually endorse the concept.

Let me give a sample of who the nonindustry organizations are that support repeal of the ICE provision:

The National League of Cities; Association of Metropolitan Sewerage Agencies; New York State Department of Environmental Conservation; National Association of Counties; the Governor of the State of North Carolina; Water Pollution Control Federation; State of New Jersey Department of Environmental Protection; city of Houston, Tex.; county sanitation districts of Los Angeles County; and the Denver Regional Council of Governments.

Many others are listed beginning on page 311 of EPA's ICE report. Imposition of ICE hurts our State and local governments as well as our industries.

The second point I would like to make is that, with only the few exceptions already mentioned, those who commented to EPA on the ICE study and those who testified before our Water Resources Subcommittee believed that ICE was not good for our clean water program and that it should not be allowed to go into effect. Each has his or her own reasons, but the feeling was overwhelmingly in favor of our repeal provision. Here are just some of the comments that are part of the record:

State of New Jersey, Department of Environmental Protection:

> The State of New Jersey strongly recommends repeal of that portion of the amendment that excludes eligibility of industrial flows. Failure to do so will delay the clean water program and seriously jeopardize the economic well-being of the State.

New York State Department of Environmental Conservation:

> (We) believe that it would be in the best interest of the program and the tax-paying population if ICE were repealed. Not only will such a significant change in funding criteria delay ongoing projects needed for water pollution control; but this delay will also require expenditure of more public funds than if we were to proceed using existing funding criteria.

Chamber of Commerce of the United States:

> The U.S. Chamber strongly believes that ICE will frustrate our national water quality improvement goals as expressed in the Clean Water Act.

Water Pollution Control Federation:

> * * * The practical effect of ICE will work against the streamlining of the grants program overall. If the purpose of our legislative reform of construction grants is to move money faster and to build those projects which contribute the most to solving local water pollution control problems, then I think that EPA's own ICE report clearly demonstrates that this particular provision will be a counterproductive force at the local level.

National Association of Counties:

> The National Association of Counties would probably endorse a reduced Federal share of wastewater construction grants before it would concur with the intent of the (ICE) amendment.

National League of Cities:

> Because of the potential hardships and inequitable treatment imposed on municipalities by the elimination of assistance to that portion of a POTW designed to serve major industrial users, the National League of Cities opposes the (ICE) provision, and will advocate its repeal * * *

County Sanitation Districts of Los Angeles County:

> Implementation of the (ICE) amendment could result in considerably more administrative and financial problems for municipal sewerage agencies than the ICR it replaces. The sanitation districts, therefore, strongly recommend * * * the elimination of the Stafford amendment from the Federal Water Pollution Control Act.

Denver Regional Council of Governments:

> The Denver Regional Council of Governments does not support the (ICE) amendment * * *. (It) will impose a tremendous administrative burden on the Denver region, and consequently, should not be required.

Mr. Speaker, I could go on, but I think the point is made. Based on the information developed thus far, it seems clear that repeal of ICE is more likely to lead to a more cost-effective, environmentally sound clean water program than is retention of ICE.

Therefore, Mr. Speaker, I think it is entirely proper that we take this action today because I believe it is in the best interests of our clean water program for us to do so.

One other point bears emphasis. The action we take today in extending the innovative and alternative provisions and the allotment formula in the Clean Water Act should not be misinterpreted as being an indication that the Committee on Public Works and Transportation does not intend to move quickly on Clean Water Act legislative reforms. Exactly the opposite is the case. We will be addressing necessary reforms, including the proposals that have been made by the administration, in an effort to produce reform legislation in time for fiscal year 1982 funding for the construction grants program.

Mr. Speaker, with these thoughts in mind, I congratulate the chairman and the ranking member of the Water Resources Subcommittee for developing this legislation and I urge my colleagues on the floor to support its passage here this morning.

● Mr. ROE. Mr. Speaker, H.R. 2957, as reported, repeals the so-called industrial cost exclusion which was added to the law by Congress last year. The provision has a long history behind it, but the facts are really quite simple. The Environmental Protection Agency administers a grants program which provides 75 percent of the costs to municipalities for the construction or upgrading of their wastewater treatment plants. In a very large number of cases, probably the majority, there are industries located in and around the city which hook into the city's sewer system. In many cases, the city and its industries grew up together, and the industries have been using the city's sewer lines and treatment system for many years. Up until last year, the construction grants program recognized this reality and allowed for funding of these joint treatment plants. Last year's legislation, however, excluded funding of the industrial portion.

This bill would restore grant eligibility for that industrial capacity. It is unrealistic to suppose that we can construct new sewer systems or upgrade existing systems by ignoring the existing partnership and forcing the municipal and industrial portions in a joint treatment system to be handled separately. Information from many communities that are in various stages of the construction grants process shows the very disruptive results of the existing provision going into effect.

The industrial cost exclusion was linked with repeal of another requirement called industrial cost recovery. Under the industrial cost recovery, industries were to pay back the grant assisted capital costs associated with the treatment they receive by hooking into a municipal system. The payments were to be made to the city, which would in turn send half of them back to the Federal Treasury, and retain half to administer this requirement and to finance future expansion and reconstruction of the sewer system.

The industrial cost recovery system never got off the ground. Very little money was ever collected. In many instances the costs of administering the system exceeded the amount of money that was taken in. It also threatened to drive industries away from regional treatment systems. Everybody agreed that the provision was no good and in Public Law 96-483 last year Congress did away with it. At the same time, we wished to have more information on the possible effects of the industrial cost exclusion. We added to the law a provision requiring EPA to do a study which would be reported to Congress during the interim before the exclusion went into effect.

We now have that study, and it shows that the industrial cost exclusion will cause, and in fact already is causing delays, because industries and cities now must renegotiate their agreements about upgrading their treatment systems. Already many projects have been slowed down while the parties wait to see what is going to happen, whether they will have to go back to the drawing board. As these projects are delayed, inflation pushes up the costs, causing the Federal Government as well as those paying the local share to lose money. In addition, alternative financing arrangements will have to be made. In many cases, cities will not have sufficient resources to pick up the costs now excluded from grant eligibility. Industries faced with new up-front costs in this situation may close down, move away from the city and self-treat, or move to another city with excess capacity. Cities which do obtain necessary financing will find the costs per household increasing drastically in many cases—particularly in the small cities where sewerage costs are already highest.

We recognize that the construction grants program may have to be scaled back, particularly in times of austere Federal budgets. However, the task ought to be undertaken in a careful and systematic way, so that the reductions in scope of the program actually result in the most good being done with the remaining dollars. Instead we have arbitrarily singled out one type of project—systems which jointly treat both industrial and residential wastes—and chopped off funding without any sense of the realities of how treatment systems are funded and operate. Instead of saving money, we are creating havoc.

Many of the arbitrary results of the industrial cost exclusion noted by witnesses at our hearings are the result of this creation of a wholesale, categorical exclusion without accommodating the realities among the cities across the country that are, in good faith, attempting to upgrade their joint treatment systems. The categorical exclusion was made without any examination of other categories of grants. Furthermore, it makes no meaningful distinctions as to the extent of previous planning and commitments by communities. Instead, the law simply sets a termination date for step 3 grants for industrial capacity. Because of the present administration's rescissions, many of the projects which might have been able to meet the November 15 deadline will now be unable to do so. Similarly, capacity for dischargers of less than an arbitrary 50,000 gallons per day of sanitary waste equivalent remains grant eligible. As a result, a community with a large number of small dischargers could have a large percentage of its industrial capacity funded, but a city with one large discharger could be excluded from funding of a lower percentage of industrial capacity. This is just an example of the arbitrary and inequitable results of trying conceptually to separate what in reality is physically joined.

We should not allow the issue of scaling back the construction grants program to confuse us. Repealing the industrial cost exclusion does not mean that we are expanding the size of the program. What determines how much the Federal Government spends on the construction grants program is the level of appropriations for that program. All we are talking about here is how that money can be distributed among different types of projects given a certain level of appropriation. We would rather see a scheme for dividing up construction grant funds that reflects reality than one that splits communities and their industries apart and creates havoc. We would also rather divide up scarce construction grants funds in a way that will allow those funds to be spent than allow those limited funds to be eaten up by the costs of delay and inflation.

I urge passage of the bill.●

### GENERAL LEAVE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself as much time as I may consume.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in most strong support of H.R. 2957. The bill provides several amendments to the Clean Water Act. These include repeal of the industrial cost exclusion provision of the act, 1-year extension of portions of the act expiring this year, and a special provision to provide interim transport of effluent in New York City.

Section 1 of H.R. 2957, as reported, repeals section 201(k) of the Federal Water Pollution Control Act, which eliminated construction grant funding of industrial capacity over 50,000 gallons per day sanitary waste equivalent after November 15, 1981.

Section 2 extends the present allotment formula for the construction grants program through fiscal year 1982. Subsection (B) extends for a like period the provision that no State shall receive less than one-half of 1 percent of the total allotment—not more than thirty-three one-hundredths of 1 percent in the aggregate to Guam, the Virgin Islands, American Samoa, and the trust territories. An additional $75 million per year is provided for this purpose in the basic act.

Section 3 extends for 1 year through fiscal year 1982 the innovative and alternative technology provisions of the Federal Water Pollution Control Act. These provisions set an 85-percent Federal share of the construction costs of treatment works using innovative or alternative wastewater treatment processes and techniques. Not less than 3 percent of the funds allotted to a State must be expended only for increasing the Federal share of grants for these treatment works from 75 to 85 percent.

Section 4 directs the Administrator of the Environmental Protection Agency to allot to the State of New York from fiscal year 1982 appropriations an amount necessary to pay the entire cost of conveying sewage from the New York City convention center to the Newton sewer treatment plant in Brooklyn. The convention center, expected to be completed in 1983, will discharge raw sewage into the Hudson River until completion of the Newton waste treatment facility which is scheduled for 1988. The amendment will insure that this sewage from the convention center is treated at an alternative facility in the interim.

Section 5 provides that the amendments made by this legislation shall not apply to any fiscal year which begins before October 1, 1981.

It must be clearly understood by all that action on this legislation does not in any way diminish the resolve that I personally feel to move as soon as possible with reforms to the Clean Water Act. This is especially important with regard to the issues addressed by the administration in its construction grants reform proposals. I know my determination to move forward is shared by my colleagues on the committee and that we will indeed act on reforms to the program.

I will concentrate my remarks today on the industrial cost exclusion repeal provision. The overwhelming evidence, based on hearings and a report by the Environmental Protection Agency, confirmed our fears that the provision does serious economic, environmental, and social harm. Witness after witness provided a litany of financial, environmental, and social problems which industrial cost exclusion would create. ICE had the appearance of creating savings by excluding selected groups from construction grants eligibility. According to EPA's report and those testifying at our hearings, inflation due to delays in construction and higher finance charges would increase costs more than the amount supposedly saved. In addition, delays in the program will delay attaining water quality goals. Many also testified about the arbitrary levels of flow to which the provision would apply. We asked EPA if they had a formal position regarding industrial cost exclusion, and they did not yet have one. Almost everyone else we heard from was in favor of repeal immediately. This ICE provision of the Clean Water Act was, I am sure, well intentioned and had good motivations. Nonetheless, we cannot ignore the vast body of evidence which necessitates our taking action to repeal it.

I would like to summarize the background on industrial cost exclusion, which derived from the earlier industrial cost recovery provision of the Clean Water Act.

Section 204 of Public Law 92-500—Water Pollution Control Act Amendments of 1972—provided that the cost of treating industrial waste water in publicly owned treatment plants should be recovered from the industries. In 1977, concerns with the implementation and effects of ICR led to our suspending collection of ICR payments and directing a study of the efficiency of, and need for, ICR—section 75 of the Clean Water Act of 1977, Public Law 95-217. Also, we excluded small industrial facilities discharging 25,000 gallons per day or less.

The report, compiled under contract, was completed late in 1978. The findings were very negative toward ICR. EPA and OMB were reticent to recommend repeal of ICR and therefore submitted, in January 1979, a report with conclusions only. Some of the conclusions were:

Tax law changes had virtually eliminated the issue of subsidy to industries by their use of publicly owned works;

ICR had little or no impact on water conservation or industrial decision-making;

ICR was extremely difficult to manage; it was a burden on small communities; and

The user-charge system was the best system to accomplish the aims of ICR.

In an effort to stem growing pressure to repeal ICR, EPA filed another report in May 1980. Several options were put forward to modify ICR in order to make it more effective.

Momentum was toward elimination of ICR. There still existed, however, concern to prevent what was perceived to be an unfair subsidy of industry. Thus ICE was proposed to replace ICR—section 3 of Public Law 96-483. Under ICE, no EPA grants can be made after November 15, 1981, for construction of that portion of publicly owned works designed to serve major industrial users.

Section 4 of Public Law 96-483 directed EPA to study the effect of this approach and report to Congress by March 15, 1981. The report, which was submitted on schedule, concentrates on factual analysis, such as how many communities would be affected and the costs to be borne by localities or industry, depending on who gets the burden. Despite the report's apparent attempt to avoid a position, the objectionable aspects of ICE and its far-reaching negative impacts are clear. Up to 1985, some of the potential effects discussed in the report are:

Four hundred and two communities are affected, mostly older cities and small towns;

Food and kindred products is the major industry affected;

The potential non-Federal share increases by 60 percent on average;

Instead of eliminating inequities, the ICE provision creates new or worsens existing inequities; and

Small communities will likely suffer the greatest ICE-induced financial burdens.

EPA concludes that ICE will delay construction of wastewater treatment facilities from 1 to 3 years to permit replanning and new financing and that any delay beyond 2 years will result in cost increases greater than the amount which might be saved through ICE. Comments received by EPA on ICE from industries, municipalities, and others have been almost totally—approximately 95 percent—against retaining ICE.

As I mentioned previously, the administration has taken no position on repeal or retention of ICE. The longer we delay, the longer planning and construction of municipal plants will be delayed and the longer industries will delay decisions on treatment. It is clear that ICE will increase the cost of wastewater treatment facilities because of these delays. At least as important, ICE will probably further delay meeting water quality objectives.

During our 2 days of hearings, witnesses from municipalities, industries, and organizations provided further substantiation of negative effects of the provision. I am particularly concerned by the fact that it is smaller communities which are most severely harmed. These are communities least able to take on this burden.

I would like to provide a couple of examples from Arkansas, where the potential negative impacts are greater than the national average. The EPA report on ICE notes as $89 per household cost average for taking over the industrial cost burden. In Arkansas the average is $137 per household. In some communities it is much higher. Fayetteville would have a $255 per household burden. In Clinton the burden would be more than $2,000 per household, and this is in a community which has an unemployment rate higher than both the State and National rate. Clearly, this burden cannot be tolerated.

In conclusion, it must be emphasized that the great preponderance of evidence that we have received indicates that not repealing ICE will cost Federal, State, and local communities more than it would save. Not repealing ICE creates numerous inequities because municipalities and industries already having joint treatment facilities are not affected by ICE. Not repealing ICE will delay attaining water quality goals. Based on EPA's own report and the extensive testimony our subcommittee received, repeal of ICE is, therefore, in the best interest of the clean water program.

I ask my colleagues to join me in supporting H.R. 2957.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. SOLOMON), a very able member of our committee and a prime sponsor of this legislation, a member who has made a great contribution to it.

(Mr. SOLOMON asked and was given permission to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, thank you for providing me with this opportunity to express my support for H.R. 2957, to repeal industrial cost exclusion. I would also like to briefly outline the chronology of my own activity with respect to this issue.

On May 15, 1980, the bill H.R. 6667, the Federal Water Pollution Control Act extension, was reported by the Committee on Public Works and Transportation. It was intended to repeal the industrial cost recovery program, which program required industrial users of publicly owned waste water treatment systems to repay that portion of the Federal grant dedicated to facilities for industrial users.

I agree with the general thrust of this program repeal.

However, the companion bill, S. 2725, which passed the Senate on June 25, 1980, also included section 5, the provision that no grant made after September 1980 to a publicly owned treatment works may be used to treat the waste of any industrial user if the amount of the waste exceeds a minimum daily flow. The legislation which was approved by Congress shifted this date to November 15, 1981.

Upon learning of the passage of the bill in the Senate, I asked the Water Resources Subcommittee staff to prepare an analysis of the probable effects of the provision.

On August 15, the staff gave me a report which made it clear that the amendment would have a serious impact on a planned water treatment facility in my district, and would likewise have a detrimental effect on similar projects across the country.

On September 19, I sent a letter to all Members of Congress, warning them to carefully review this section to see how it might impact on their districts. In that letter I stated "Before the House-Senate conferees consider this provision—ICE—the consequences of this provision must be clearly understood." That was 11 days before the 96th Congress approved ICE.

Nine days later, on September 28, I sent a letter to the New York congressional delegation, outlining the various concerns over ICE and highlighting the view of New York's environmental commissioner, Robert Flacke, who pointed out that the construction grants program had proved to be sound and in the best interests of pollution abatement, and that a major change; that is, industrial cost exclusion, would severely hamper the goals of the Clean Water Act.

Despite these efforts, Congress approved S. 2725, which included industrial cost exclusion, on October 1, 1980.

During the first week of the 97th Congress—January 22, 1981—I introduced legislation to repeal industrial cost exclusion.

On February 9, 1981, I again contacted my colleagues from New York, requesting additional support. In that letter I pointed out the findings of a report released by the New York State Department of Environmental Conservation. The report, entitled "An Analysis of the Construction Grants Program for the Purpose of Assessing the Potential Effects of Section 3 of Public Law 96-483," concluded that industrial cost exclusion is much too major a change to make at this late date in the program. From a dollar standpoint, the reduction in expenditures of public funds resulting from ICE will be negated by increased public cost due to project delay. From a grantee standpoint, the report said, it is just one more unnecessary delay, and in some cases, a hardship caused by a retroactive change in Government policy.

Finally, on March 4, 1981, I alerted all Members of Congress to important information from the draft EPA analysis of the effects of ICE here again, I believe that the information from that report is worth mentioning, and I quote:

> This information is particularly important in light of the statement made by the industries and communities describing the devasting effect of ICE the industries would either close permanently or move to other municipalities which have suitable publicly owned treatment works. The loss of these industries would have serious consequences on the already high unemployment rates in these communities. In addition to increased unemployment, the residents and industries remaining in these cities would have to contribute to the construction and maintenance of publicly owned treatment works through increased property taxes.

Mr. Speaker, I would conclude by saying that for several years I have witnessed cooperation between industry, local, State, and Federal Government in an effort to help clean our waterways and environment. Now many of the other partners believe that the Federal Government, through the passage of ICE is attempting to pull the rug right out from under them. I totally support the efforts of Mr. HOWARD, Mr. CLAUSEN, Mr. ROE, Mr. HAMMERSCHMIDT, and Mr. YOUNG of Missouri to repeal industrial cost exclusion and wish to thank you for allowing me the opportunity to testify.

Mr. EDGAR. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Missouri (Mr. YOUNG)

(Mr. YOUNG of Missouri asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Missouri. Mr. Speaker, I rise in support of H.R. 2957, legislation to amend the Federal Water Pollution Control Act to delete the limitation on the use of grants for publicly owned treatment works for treatment, storage, or conveyance of industrial wastes.

Mr. Speaker, I am pleased to join the distinguished chairman of our Committee on Public Works and Transportation in supporting the enactment of H.R. 2957. My purpose here today is to briefly: First, review the history of the industrial cost exclusion—ICE—provision of the Federal Water Pollution Control Act—Public Law 96-483—and second, urge my colleagues in the House of Representatives to delete the industrial cost exclusion requirement without further delay.

The reasons for repeal of industrial cost exclusion are well documented in an EPA report on the impact of ICE sent to Congress in March of 1981.

In the report, EPA concludes that ICE will have a negative effect on the EPA grants program. The report also states that important national water cleanup projects will be delayed from 1 to 3 years. EPA states that these delays are environmentally undesirable.

### LEGISLATIVE HISTORY

In 1972 the Congress passed the Nation's landmark water pollution control law, the Clean Water Act, Public Law 92-500. The Clean Water Act set ambitious goals for cleaning up our Nation's waterways by 1985. The Congress recognized that these goals would not be achievable without substantial financial assistance to municipalities and treatment authorities to enable them to construct the new and upgraded treatment facilities needed to meet the act's stringent treatment requirements. While the construction of new treatment facilities under the section 201 grants program has not proceeded as fast as we all wish, there have been remarkable improvements in our rivers and lakes since 1972. These improvements would not have occurred without Federal assistance.

As the members of the Committee on Public Works and Transportation are well aware, industrial cost exclusion—ICE—was adopted in the closing days of the 96th Congress as a short-term substitute for another mechanism contained in the original Clean Water Act—industrial cost recovery—ICR.

The members of this committee, as well as our colleagues in the Senate, voted to eliminate industrial cost recovery, because we concluded that our purpose in establishing industrial cost recovery was not being achieved.

Unfortunately, ICE is worse than the ICR provisions if replaced.

Stated briefly, the industrial cost exclusion requirement prohibits the use of Federal construction money to treat industrial discharges in excess of a flow equivalent to 50,000 gallons per day.

I believe industrial cost exclusion is a flawed concept for several reasons:

The committee held hearings on H.R. 2957 and received testimony and other material from a large number of industries, cities, trade and professional associations, and the Environmental Protection Agency. Testimony was overwhelmingly in favor of repealing the industrial cost exclusion provision. On the basis of the EPA study, the testimony of all those concerned, and our own examination of the issue, the committee concluded that the industrial cost exclusion should be repealed. All available evidence indicates that it is arbitrary, inequitable, and not likely to produce significant cost savings to the Federal Government.

ICE will discourage joint industrial municipal sewage treatment. The original Clean Water Act was grounded on the concept of joint-treatment facilities. Such joint treatment has long been considered the most sound from both an environmental and cost-effective point of view. We believe the new law will have a damaging effect on the environment since ICE separates industrial and municipal users into arbitrary classifications. Joint treatment facilities provide for more efficient and ultimately lower use of resources. Less land, energy and fewer people are required in continued operation of joint treatment facilities. Also, fewer larger facilities are easier and less costly to manage, operate, and enforce than a large number of small treatment facilities. Since continuing annual costs associated with the above factors are ultimately greater than the initial construction cost, we should strive to control these at the lowest possible level. ICE would favor nonregional facilities and the aforementioned benefits could not be realized.

The 50,000 gallons per day cutoff stipulated under ICE is discriminatory in that it has no rational basis. For example, Federal funds will continue to be available for small industries dry industries, and residential users, but not for wet industries such as brewers and food processors with a waste flow in excess of 50,000 gallons per day.

Despite what many would have you believe, industrial cost exclusion is not necessary to achieve a level of parity between industries using publicly owned treatment works and those using self-treatment facilities. Various tax credits already achieve this result.

### IMPACT ON MAJOR INDUSTRY

I believe it is worthwhile to review the impact of industrial cost exclusion on selected major industrial users.

In St. Louis, near my own congressional district, Anheuser-Busch, Inc., is a major water user and as a consequence, the brewery discharges over 12,700,000 gallons per day into the Bissell Point treatment plant of the Metropolitan St. Louis Sewer District—MSD.

The impact of ICE on MSD, Anheuser-Busch and other industries could be serious and far-reaching.

Other St. Louis firms, such as Pet, Inc., Ralston Purina, Chrysler, Monsanto, and over a dozen hospitals with daily flows in excess of 50,000 gallons including the Veterans Memorial Hospital have told me of the financial burdens presented by ICE.

The St. Louis brewery of Anheuser-Busch is the firm's oldest plant and already has the highest manufacturing costs of any brewery in the system.

The operating costs of this St. Louis facility are substantial. These costs, however, will be increased dramatically when industrial cost exclusion goes into effect. It should also be pointed out that ICE will adversely affect MSD's new Meramec River plant for which step 2 funds will not be available until 1982.

In urban areas such as St. Louis, these older plants provide needed jobs and tax revenue. I believe the potential costs of industrial cost exclusion will weigh heavily in any future expansion or modernization decision. With respect to shifting production capabilities out of the older, urban areas of the mid-West and Northeast into the Nation's Sun Belt, it can be safely assumed that today's corporate leadership will consider locating new production facilities in areas of the country where such disincentives do not exist.

Officials of the Metropolitan St. Louis Sewer District informed me that ICE could be so costly as to force many large industries to build their own treatment facilities resulting in substantial losses of revenue to the sewer district which help pay for the operation and maintenance of treatment facilities. As a result of the loss of revenue from major industries, the costs of operation of MSD's facilities will have to be borne by the residential and small commercial users, which in turn, will result in an increase of sewer bills.

MSD officials also feel that to force industries to build their own facilities would result in an impossible job of policing discharges from those industries and could result in serious spills directly into the waters of the Nation and certainly would not be as efficient as regional facilities treating all wastes.

Another example in my district is the Monsanto Chemical Co. Monsanto Co. operates several major facilities within the St. Louis MSD system. In fact, one of these plants is the oldest operation within the company. Imposition of ICE would have a substantial negative effect on this operation. ICE would result in an inequity at this site compared to other companies who are serviced by municipal treatment facilities funded by the Clean Water Act to date. It seems illogical to penalize industries using municipal treatment plants that have not been constructed due to low priority within an overall State needs list, and/or the absence of sufficient Federal funding in the past. This inequity seems even more illogical where treatment plants are low on State priorities because there is no compelling water quality improvement need.

I believe it would be shortsighted for this Congress—already well aware of the inequities of Federal support between the Frost Belt and Sun Belt—to further aggravate the imbalance by allowing Federal policy to again penalize our older urban areas.

### CONCLUSION

The most important aspect of H.R. 2957, however, will be to maintain the vital, forward progress of the Nation's clean water effort.

Pollutants which could have been removed from our Nation's rivers, lakes, and streams will continue to enter our waterways unless H.R. 2957 is quickly enacted into law.

Chairman HOWARD introduced H.R. 2957 immediately prior to the Easter recess and I want to take this opportunity to applaud the chairman's interest in this important issue.

It is in the best interests of all the Members of the House of Representatives that we expedite the passage of ICE repeal.

I urge enactment of H.R. 2957.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to one of our most able and distinguished Members, who had an interest in this legislation way back in the 95th Congress when she introduced a bill to exclude industrial cost recovery, the gentlewoman from Massachusetts (Mrs. HECKLER).

(Mrs. HECKLER asked and was given permission to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, I rise in support of H.R. 2957, legislation to repeal the industrial cost exclusion provisions enacted by the Congress last year. I congratulate my colleagues, Congressman JIM HOWARD, chairman of the Committee on Public Works and Transportation, the ranking member Congressman DON CLAUSEN who has worked so closely on this issue over a period of years, and Congressman JOHN PAUL HAMMERSCHMIDT, the ranking member of the Water Resources Subcommittee who understands the broad ramifications of ICE and has fought to see the charge eliminated. Their leadership has been instrumental.

Today's House consideration of H.R. 2957 may be the beginning of the last chapter of a sorry tale of Government overregulation and negative cost-benefit analysis—a tale that I hope the Congress will close with the elimination of the ICE charge.

The bill pending before the House of Representatives, H.R. 2957, is the natural extension of legislation I first introduced over 4 years ago. In 1977 I introduced a bill to eliminate the Industrial Cost Recovery (ICR) charge on industry, a charge designed for those industries which tie into a publicly owned treatment works (POTW's) to pay for a portion of the capital construction costs of the facility, in addition to the user fees which would be charged of them for everyday use. Having discussed the issue at length with industry representatives and city officials, it became evident to me then that full implementation of ICR in Fall River, Mass., the largest city in my congressional district, would be a microcosm of its effects nationwide—in short, it would have a devastating impact on older, industrialized areas—jobs would be lost, plants could cancel expansion plans or move elsewhere to localities which had an operational POTW with excess capacity and the move out of the Northeast and upper Midwest would be further accelerated. I have been fighting to eliminate ICR ever since.

Last year the House passed H.R. 6667, the key provision of which was the elimination of the ICR fee. I might add that this move had been preceded by a 2½-year moratorium on the collection of the charge during which time the Environmental Protection Agency conducted a series of regional hearings on the impact of ICR—eight volumes explained the impact, several thousand pages outlined the technical detail which lead the agency to conclude that ICR was not effective and did not accomplish that which it had been designed to do. The evidence in favor of repeal of ICR was overwhelming and in fact much of it could have been translated to the similar ICE fee.

Though the House version of last session's bill eliminated the ICR charge outright with no substitute charge, the Senate provisions eliminated from grant funds eligibility the treatment of the wastewater flow of any industry using more than 50,000 gallons per day. The discussions preceding the Conference Committee on this legislation were extensive as both sides attempted to reach agreement. The compromise reached was the retention of the Senate provision but with a delayed effective date of November 15, 1981. In addition, the language required the Environmental Protection Agency to prepare and submit to the Congress a report on the effect of the ICE provision.

EPA's most recent study concluded that the charge was inequitable, would result in delayed construction of POTW's which in turn would lead to increased costs and would force affected industries to seek alternative systems of financing which could lead to severe budgetary restraints on older cities and small towns, both of which can least afford smaller tax bases. The House Public Works and Transportation Committee reviewed the EPA study and complemented it with extensive outside testimony. In its wisdom the committee concurred with EPA on the need for repeal of ICE.

Thus we reach today's chapter. The EPA's study of the short term impact of ICE on over 400 communities is a litany of the increased cost the charge will impose on individual households. In my home State of Massachusetts the impact ranges from a low of $21 per household in Boston to an estimated cost of $62 per household for Taunton in my congressional district to a figure of over $1,450 per household in Webster. EPA's study uses a host of unflattering phrases to describe its impact—uneven application, would result in rising construction costs and additional financing charges, would hit most heavily small and older communities, would result in delay, increased planning time for POTW's would be required and finally, the recognition that industry closings are a distinct possibility.

It is the Congress which, with all good intention, imposed the ICR charge as part of the Federal Water Pollution Control Act Amendments of 1972. And, it must be the Congress which has the objectivity and the benefit of hindsight analysis to recognize that the charge and its present substitute would not work and must be eliminated.

I urge my colleagues to vote in favor of H.R. 2957. More importantly, perhaps, I urge the members of the Senate Environment and Public Works Committee to read the record. It is a complete analysis and yet its conclusions are an unwavering list of criticisms of the charge and its impact. It is the U.S. Senate which will determine the future of ICE after today's expected House action. In closing, a government which recognizes its own shortcomings and seeks to correct them, swiftly and equitably, is truly a government of the people.

□ 1145

Mr. EDGAR. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Minnesota (Mr. OBERSTAR), who is cochairman with me of the Northeast-Midwest Congressional Caucus.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very pleased to see this legislation finally make its way to the House floor. I support the repeal of the industrial cost exclusion provision in the current Water Pollution Control Act. When it originally appeared in the Federal Water Pollution Control Act of 1972 as industrial cost recovery, it was a mistake. It is a mistake today as industrial cost exclusion.

I am glad we have come to the point that, instead of doing as we have done in years past, amending it or trying to make it better, we are repealing it. We can now make changes in the fundamental act necessary to improve it and make it a stronger program.

In the years since ICR has been in the Water Pollution Control program, and now ICE, many industries have been either discouraged from participating in publicly owned treatment works or have been forced out of their current participation in such treatment works. The effect has been to shift the cost of operation and maintenance and of replacement of those facilities onto small business and, worst of all, residential users who are going to have to pay higher costs.

Mr. Speaker, by repealing ICE we will encourage major users to remain within the system, spread the cost more equitably across the entire community, and have a stronger water pollution control program. I urge passage of this legislation.

● Mr. CORRADA. Mr. Speaker, I rise in support of the general goals of H.R. 2957, legislation to amend the Federal Water Pollution Control Act.

The legislation before the House today amends existing legislation and alters the existing and major Environmental Protection Agency program which provides local communities funds for the construction of waste treatment plants.

It does so by removing a burdensome provision whose original intent was to help industry pay for part of the costs of constructing waste treatment plants. That provision proved costly and unworkable.

This provision, referred to as the industrial cost exclusion, was later shown by many municipalities to be a complex mechanism and one that did not allow easy recovery of charges from industries using the waste treatment plants.

The legislation before the House today may be considered a minor bill, but I wish to commend the Committee on Public Works and Transportation for their thorough review of the problem which developed after we passed the previous Federal Water Pollution Control Act and for the committee's oversight and review of existing programs. Such a review and modification are extremely helpful to a more efficient program operation.

This legislation, which extends the present allotment formula while simultaneously refining the legislation, is an important vehicle for States, and Puerto Rico, to provide the facilities for preservation of the environment through proper antipollution procedure.

It deserves our support.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. EDGAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion offered by the gentleman from Pennsylvania (Mr. EDGAR) that the House suspend the rules and pass the bill, H.R. 2957, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

97TH CONGRESS
*1st Session*

HOUSE OF REPRESENTATIVES

REPORT
No. 97-90

# ELIMINATION OF THE LIMITATION ON INDUSTRIAL WASTE TREATMENT

MAY 19, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

## REPORT

[To accompany H.R. 2957]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 2957) to amend the Federal Water Pollution Control Act to delete the limitation on the use of public treatment works grants for treating, storing, or conveying the flow of industrial users into treatment works, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

### INTRODUCTION

SECTION 1 of H.R. 2957, as reported, repeals section 201(k) of the Federal Water Pollution Control Act (33 U.S.C. 1281(k)). Section 201(k) was added by Section 3 of Public Law 96-483. It states:

> (k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such teatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an ap-

> proved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.

This provision is sometimes referred to as the "Industrial Cost Exclusion" (ICE).

The industrial cost exclusion has its origin in Congress' attempts to deal with an earlier provision known as "Industrial Cost Recovery" (ICR). The Federal Water Pollution Control Act as amended in 1972 authorizes the Environmental Protection Agency to make grants to municipalities for 75 percent of the eligible costs of construction of publicly owned treatment works (POTW's). It also provided that industries which use waste treatment works receiving construction grant assistance under the act must pay to the grantee that portion of the grant allocable to providing treatment capacity for their wastes. At least 50 percent of this industrial cost recovery was to be returned by the grantee to the United States Treasury as miscellaneous receipts. The rest was to be retained by the grantee for the costs of administering the requirement and for future expansion and reconstruction of the treatment works.

As EPA progressed with the implementation of industrial cost recovery, there were increasing complaints from municipalities and others that the mechanism required to assess and collect ICR charges was so burdensome that administrative costs exceeded the monies recovered and retained. Industries and municipalities reported that the additional cost attributable to ICR was, in many cases, driving industries away from regional publicly owned waste treatment plants. Other industries, particularly those located in highly developed areas, lacked the option to leave. Industrial cost recovery acted as a penalty for many of these industries because they had no choice but to continue to discharge into the municipal system at a higher cost, or close down.

As a result, the 1977 Amendments to the Act (P.L. 95-217) placed an 18-month moratorium on the ICR requirement and called for EPA to submit to Congress a study of the efficiency of and the need for ICR. Because of delay in completion of the EPA study and legislative proposals, the moratorium was extended an additional year, to June 30, 1980, by Public Law 96-148.

After considering EPA's final report and holding extensive hearings on ICR, the Committee in the 96th Congress concluded that industrial cost recovery did not serve the original intent of Congress in enacting it and was discriminatory, unworkable, and not cost-effective in a large number of instances (House Report No. 96-983). The Committee reported H.R. 6667 which amended the Federal Water Pollution Control Act by deleting the industrial cost recovery provisions.

The Senate Committee on Environment and Public Works reported a bill, S. 2725, which also eliminated the industrial cost recovery requirements of the Act. The Report (No. 96-744) stated:

> The Committee unanimously recommends repeal of the industrial cost recovery requirement in response to the overwhelming evidence presented in three days of testimony that ICR has not accomplished the purposes for which it was originally intended.

In addition, S. 2725 provided that, beginning October 1, 1980, no grant was to be used to treat the wastewater flow of any industrial user greater than 50,000 gallons per day sanitary waste equivalent. The provision did not apply to grant assistance for step 1 facilities planning or to step 2 preparation of construction drawings and specifications. It also did not apply to step 3 grants for physical construction for any plant which had received its step 2 grant on or before May 15, 1980.

In October 1980, the Congress passed a compromise between the House bill, which repealed ICR without changing grant eligibility for industrial capacity, and the Senate bill, which repealed ICR but added ICE. Public Law 96-483 retained ICE, but delayed the effective date of the exclusion to November 15, 1981. It also required the Environmental Protection Agency to prepare and submit to Congress by March 15, 1981, a study on the effect of the ICE provision.

EPA transmitted its report to Congress on March 13, 1981. The study concluded that the industrial cost exclusion would cause a financial hardship for a large number of communities and that savings to the Federal Treasury could very well be exceeded by the costs of the delays caused by requiring cities to revise their plans and negotiate new agreements with their industries.

The report shows the following:

ICE causes an inequitable distribution of costs among similar industries.

Ths short-term effects of ICE will be to cause delay, and therefore increase costs, because communities must reconsider treatment options, find alternative financing for affected industrial capacity, and renegotiate agreements with industries.

When a community and its industries cannot work out acceptable arrangements, industries may self-treat, move, close down, or shift production to other plants. The last three possibilities will decrease a community's economic base.

The effects of ICE are widespread. 402 communities serving 38.5 million people, were identified as affected by ICE between now and 1985. The excluded portion in 1980 dollars is $1,243.7 million. Between 1985 and 2000, 1,382 communities with substantial industrial flows are identified, with an industrial cost of $3,538 million.

The effects of ICE on communities are uneven. ICE will increase the non-Federal share in all affected communities. However, that increase ranges from five percent to over 300 percent. On the average, ICE will result in a 60 percent increase in the non-Federal share—before considering inflation and financing charges and without considering the costs of delay.

Considered as a one-time charge upon households, ICE will cost affected communities anywhere from $1 to over $10,000 per household, with the average charge per household being $89.

Rising construction costs, additional financing charges and delay can make the increase in the non-Federal share, not 60 percent, but as much as 104 percent. The most severe effects occur in small communities, which are already paying larger capital and operation and maintenance charges per household than cities. The differential effects of ICE can only add to that disparity. This situation will be worsened by the combination of higher incremental costs per household, lower personal income, and higher interest rates that characterize small communities.

ICE will delay projects in all affected communities. These ICE-induced project delays in the short term will probably eliminate most Federal savings that would otherwise result from not funding the industrial capacity of large water users.

If industries decide to self-treat, a few communities may be able to use alternative methods of treating wastewater and thereby have less costly projects. Such communities, however, are not typical.

In the long term, ICE will increase both planning time and the non-Federal share. Communities most affected will be older cities and small towns, both of which are likely to face severe budget rises and have shrinking economic bases.

Industry closings are a distinct possibility. Case studies conducted in Watsonville, California; Gloversville-Johnstown, New York; and Milwaukee, Wisconsin, dramatize the potentially devastating effects of such choices and the impasse between cities and industries that is created.

Table I-17 of the report lists the communities identified as affected in the short term along with the increased cost per household and information on the communities' unemployment rates. The information in that table is reproduced below:

AFFECTED COMMUNITIES, 1982-85

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| National | 38,529,200 | 7.1 | $8,700 | $88.74 |
| Alaska—Not affected. | | | | |
| Alabama unemployment rate 8.7 percent: | | | | |
| Anniston | 31,000 | (3) | 5,900 | 100.00 |
| Boaz | 14,000 | (3) | 6,000 | 236.00 |
| Cullman | 22,000 | (3) | 5,800 | 99.00 |
| Gadsden | 36,000 | (3) | 6,400 | 77.00 |
| Opelika | 20,000 | | 5,800 | 65.00 |
| Arizona unemployment rate 6.9 percent: | | | | |
| Casa Grande | 18,000 | (2) | 5,900 | 15.00 |
| Chandler | 30,000 | | 8,200 | 403.00 |
| Flagstaff | 35,000 | (2) | 5,900 | 71.00 |
| Phoenix | 919,000 | | 8,200 | 16.00 |
| Arkansas unemployment rate 7.3 percent: | | | | |
| Alma | 1,600 | | 5,400 | 654.00 |
| Atkins | 4,000 | | 5,600 | 124.00 |
| Bentonville | 19,500 | | 5,700 | 193.00 |
| Berryville | 4,500 | | 6,200 | 550.00 |
| Clarksville | 4,600 | | 5,100 | 185.00 |
| Clinton | 1,000 | | 5,700 | 1,840,000 |
| Decatur | 3,000 | | 7,100 | 596.00 |
| Dequeen | 3,900 | | 6,200 | 728.00 |
| Fayetteville | 31,000 | | 6,000 | 246.00 |
| Harrison | 7,200 | | 6,400 | 57.00 |
| Huntsville | 2,600 | | 4,800 | 920.00 |
| Jonesboro | 25,000 | | 6,200 | 168.00 |
| Little Rock | 168,500 | | 7,600 | 44.00 |
| Monticello | 12,600 | (2) | 5,200 | 166.00 |
| Morrilton | 6,800 | (2) | 5,300 | 135.00 |
| Murfreesboro | 1,400 | | 5,000 | 1,650.00 |
| Nashville | 6,500 | | 6,600 | 376.00 |
| North Little Rock | 73,000 | | 7,600 | 8.00 |
| Rogers | 20,000 | | 7,100 | 338.00 |

## AFFECTED COMMUNITIES, 1982–85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Siloam Springs | 15,000 | | 7,100 | 43.00 |
| Pine Bluff | 57,500 | | 6,500 | 275.00 |
| Springdale | 51,000 | | 6,000 | 320.00 |
| Stuttgart | 10,500 | | 7,400 | 32.00 |
| Texarkana | 86,000 | (3) | 6,500 | 39.00 |
| Van Buren | 8,500 | (3) | 5,400 | 291.00 |
| West Memphis | 45,500 | | 5,200 | 25.00 |
| California unemployment rate 6.7 percent: | | | | |
| Corning | 5,000 | (2) | 6,700 | 15.00 |
| Eureka | 25,000 | (2) | 7,300 | 77.00 |
| Hughson | 3,000 | (2) | 7,900 | 1,285.00 |
| Malibu | 70,000 | | 9,400 | 3.00 |
| Manteca | 14,000 | (2) | 8,300 | 59.00 |
| Modesto | 2,700 | | 7,900 | 10,300.00 |
| Oakview | 2,500 | (2) | 7,900 | 1,100.00 |
| Orange City | 75,000 | | 7,900 | 187.00 |
| Santa Rosa | 51,000 | | 9,300 | 1.00 |
| Vacaville | 22,000 | | 7,800 | 119.00 |
| Watsonville | 15,000 | | 7,800 | 2,200.00 |
| Contra Costa Co. | 320,000 | | 9,800 | 5.00 |
| San Francisco | 800,000 | | 11,900 | 6.00 |
| San Jose and Santa Clara | 550,000 | | 9,800 | 41.00 |
| Los Angeles Co. | 3,500,000 | (2) | 9,400 | 9.00 |
| Los Angeles | 3,500,000 | (2) | 9,400 | 7.00 |
| Colorado unemployment rate 6.3 percent: | | | | |
| Broomfield | 57,000 | | 8,300 | 11.00 |
| Delta | 5,800 | (1) | 5,400 | 223.00 |
| Fort Morgan | 8,000 | (1) | 7,700 | 258.00 |
| Greeley | 40,000 | (1) | 6,900 | 174.00 |
| Montrose | 30,000 | (2) | 5,800 | 147.00 |
| Westminster | 64,000 | (1) | 8,200 | 5.00 |
| Colorado Springs | 232,000 | (2) | 7,000 | 4.00 |
| Denver | 655,000 | (1) | 9,900 | 8.00 |
| Pueblo | 110,000 | (1) | 7,400 | 20.00 |
| Connecticut unemployment rate 5.6 percent: | | | | |
| Manchester | 50,000 | | 8,900 | 113.00 |
| Milford | 60,000 | | 8,100 | 5.00 |
| New Haven | 138,000 | (1) | 8,100 | 23.00 |
| North Haven | 15,000 | | 8,100 | 72.00 |
| Suffield | 9,000 | | 8,900 | 320.00 |
| Wallingford | 40,000 | | 8,100 | 72.00 |
| Winchester | 15,000 | | 8,500 | 18.00 |
| Delaware unemployment rate 6.9 percent: Wilmington | 393,000 | | 9,200 | 42.00 |
| District of Columbia—Not affected. | | | | |
| Florida unemployment rate 6.8 percent: | | | | |
| Orlando | 99,000 | | 8,000 | 56.00 |
| Pensacola | 59,500 | | 6,000 | 32.00 |
| Fort Lauderdale | 140,000 | | 9,000 | 1.00 |
| Jacksonville | 528,900 | | 7,500 | 26.00 |
| Miami | 334,900 | (2) | 8,600 | 1.00 |
| Georgia unemployment rate 6.3 percent: | | | | |
| Calhoun | 7,500 | (2) | 5,800 | 253.00 |
| Dalton | 26,000 | (2) | 7,000 | 3,043.00 |
| LaGrange | 24,000 | | 6,400 | 327.00 |
| Rome | 43,000 | (2) | 6,700 | 138.00 |
| Hawaii unemployment rate 5.4 percent: Honolulu | 350,000 | | 8,800 | 31.00 |
| Idaho unemployment rate 6.1 percent: | | | | |
| Blackfoot | 10,000 | | 5,700 | 2.00 |
| Boise | 100,000 | | 8,800 | 6.00 |
| Idaho Falls | 40,000 | | 7,300 | 48.00 |
| Lewiston | 30,000 | (2) | 8,300 | 0.30 |
| Pocatello | 72,000 | (1) | 5,700 | 1.50 |

## AFFECTED COMMUNITIES, 1982-85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Illinois unemployment rate 8.8 percent: | | | | |
| Arthur | 2,300 | | 8,300 | 3.00 |
| Belleville | 44,000 | (3) | 7,000 | 9.00 |
| Belvidere | 17,000 | (2) | 9,000 | 388.00 |
| Canton | 14,000 | | 7,100 | 9.00 |
| Centralia | 13,000 | (3) | 6,800 | 106.00 |
| Chillicothe | 6,000 | (3) | 6,900 | 4.00 |
| Clinton | 7,600 | (2) | 6,800 | 291.00 |
| Decatur | 89,000 | (3) | 6,400 | 426.00 |
| Fairfield | 5,800 | (3) | 6,600 | 250.00 |
| Geneva | 9,100 | (3) | 8,900 | 37.00 |
| Herrin | 9,500 | (3) | 6,600 | 376.00 |
| Jacksonville | 19,000 | | 8,700 | 30.00 |
| Joliet | 74,000 | (3) | 8,100 | 241.00 |
| Kankakee | 31,000 | (3) | 8,100 | 831.00 |
| Milan | 5,100 | (3) | 9,000 | 85.00 |
| Monticello | 4,500 | | 8,800 | 986.00 |
| Peotone | 2,500 | (3) | 8,100 | 210.00 |
| Roselle | 9,200 | | 10,900 | 149.00 |
| St. Charles | 16,000 | (2) | 8,900 | 365.00 |
| Spring Valley | 5,400 | (3) | 7,800 | 83.00 |
| Streator | 15,000 | (2) | 8,200 | 129.00 |
| Taylorville | 11,000 | (3) | 7,900 | 816.00 |
| Waverly | 1,400 | | 8,700 | 20.00 |
| Woodstock | 11,000 | (2) | 8,600 | 20.00 |
| Indiana unemployment rate 8.6 percent: | | | | |
| Anderson | 75,000 | (3) | 7,700 | 238.00 |
| Bloomington | 45,000 | | 6,000 | 1.00 |
| Clarksville | 15,000 | | 6,800 | 183.00 |
| Columbia | 5,500 | (3) | 7,700 | 218.00 |
| East Chicago | 50,000 | (3) | 8,200 | 583.00 |
| Elkhart | 45,000 | (3) | 8,300 | 134.00 |
| Jeffersonville | 21,000 | | 6,800 | 13.00 |
| Michigan City | 42,000 | (3) | 7,900 | 105.00 |
| Mooresville | 6,000 | | 7,100 | 275.00 |
| Muncie | 72,000 | (3) | 6,800 | 306.00 |
| New Albany | 40,000 | (3) | 7,200 | 48.00 |
| Plymouth | 8,000 | (2) | 7,300 | 34.00 |
| Terre Haute | 72,000 | (2) | 7,000 | 19.00 |
| Vincennes | 22,000 | (2) | 6,700 | 250.00 |
| Warsaw | 11,000 | | 7,500 | 250.00 |
| Fort Wayne | 185,000 | (3) | 8,300 | 123.00 |
| Hammond | 120,000 | (3) | 8,200 | 62.00 |
| Indianapolis | 775,000 | (2) | 8,700 | 18.00 |
| Iowa unemployment rate 5.3 percent: | | | | |
| Boone | 12,500 | | 7,300 | 16.00 |
| Cedar Falls | 35,000 | | 8,100 | 20.00 |
| Charles City | 9,100 | | 7,400 | 158.00 |
| Fairfield | 8,700 | | 7,700 | 12.00 |
| Fort Dodge | 31,200 | (1) | 7,600 | 18.00 |
| Iowa City | 47,700 | | 7,700 | 102.00 |
| Marshalltown | 26,500 | (1) | 8,300 | 136.00 |
| Newton | 15,600 | | 7,700 | 289.00 |
| Waterloo | 73,000 | (1) | 8,100 | 88.00 |
| Des Moines | 220,000 | | 8,200 | 38.00 |
| Kansas unemployment rate 4.4 percent: | | | | |
| Dodge City | 23,000 | | 8,900 | 957.00 |
| Hutchinson | 40,000 | (2) | 7,600 | 350.00 |
| Liberal | 15,000 | | 9,000 | 300.00 |
| Olathe | 20,000 | (1) | 10,700 | 138.00 |
| South Hutchinson | 5,000 | (2) | 7,600 | 220.00 |
| Kansas City | 200,000 | (1) | 8,200 | 138.00 |
| Wichita | 300,000 | | 16,700 | 6.00 |

## AFFECTED COMMUNITIES, 1982-85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Kentucky unemployment rate 7.8 percent: | | | | |
| Lexington | 90,000 | | 7,800 | 9.00 |
| Middleboro | 11,700 | (2) | 5,600 | 141.00 |
| Owensboro | 51,400 | (2) | 7,600 | 5.00 |
| Louisiana unemployment rate 6.1 percent: | | | | |
| Pineville | 18,000 | (2) | 6,000 | 67.00 |
| Shreveport | 133,000 | (1) | 7,400 | 47.00 |
| Maine unemployment rate 7.0 percent: | | | | |
| Biddeford | 20,000 | | 6,600 | 92.00 |
| Carinna S.D. | 2,000 | | 5,900 | 1,513.00 |
| North Berwick | 2,000 | | 6,600 | 96.00 |
| South Paris | 2,700 | (2) | 5,700 | 2,118.00 |
| Maryland unemployment rate 5.9 percent: | | | | |
| Frederick | 30,000 | (2) | 7,100 | 64.00 |
| Massachusetts unemployment rate 5.6 percent: | | | | |
| Billerica | 32,000 | | 8,900 | 455.00 |
| Dudley | 9,000 | | 7,400 | 38.00 |
| Gardner | 20,000 | (2) | 7,400 | 193.00 |
| South Bridge | 18,000 | (2) | 7,400 | 229.00 |
| South Essex | 80,000 | (1) | 8,300 | 382.00 |
| Taunton | 60,000 | (2) | 6,700 | 62.00 |
| Webster | 20,000 | (1) | 7,400 | 1,458.00 |
| New Beford | 160,000 | (2) | 6,700 | 653.00 |
| Worcester | 300,000 | (1) | 7,400 | 37.00 |
| Boston | 3,000,000 | | 7,100 | 21.00 |
| Michigan unemployment rate 12.1 percent: | | | | |
| Benton Harbor | 72,000 | (3) | 7,600 | 1.00 |
| Calumet | 1,000 | (2) | 5,300 | 4,070.00 |
| Cedar Springs | 2,900 | (2) | 8,000 | 1,067.00 |
| Constantian | 1,700 | (2) | 7,300 | 12.00 |
| Flushing | 7,100 | (3) | 9,000 | 107.00 |
| Hudson | 2,600 | (3) | 7,700 | 844.00 |
| Marine City | 4,600 | (2) | 7,300 | 970.00 |
| Midland | 34,900 | | 8,500 | 1.00 |
| Memphis | 1,100 | (2) | 7,300 | 1,125.00 |
| Monroe | 23,900 | (2) | 7,700 | 24.00 |
| Mount Clemens | 20,500 | (3) | 9,400 | 90.00 |
| Muskegon Co. | 5,400 | (3) | 6,900 | 458.00 |
| Otsego | 4,500 | (2) | 6,700 | 81.00 |
| Paw-Paw | 3,200 | (2) | 6,800 | 138.00 |
| Port Huron | 35,800 | (3) | 7,300 | 931.00 |
| Reed City | 2,300 | (3) | 5,100 | 102.00 |
| Rochester | 7,100 | | 10,900 | 62.00 |
| South Haven | 6,500 | (2) | 6,800 | 3.00 |
| Sturgis-St. Joseph | 9,300 | (2) | 7,300 | 157.00 |
| Saginaw | 92,000 | (3) | 8,400 | 33.00 |
| Saginaw-Frankenmuth | 2,800 | (3) | 8,400 | 472.00 |
| Saline | 4,800 | (2) | 9,200 | 37.00 |
| Sault St. Marie | 15,000 | (3) | 5,000 | 166.00 |
| Sparta | 3,100 | (2) | 8,000 | 3,325.00 |
| Tecumseh | 7,100 | (3) | 7,700 | 697.00 |
| Vasser | 2,800 | (3) | 7,200 | 264.00 |
| Wyoming | 57,000 | (2) | 8,000 | 23.00 |
| Muskegon | 114,000 | (3) | 6,900 | 101.00 |
| Lansing | 132,000 | (2) | 8,500 | 313.00 |
| Genesee | 657,000 | (3) | 9,000 | 13.00 |
| Minnesota unemployment rate 5.4 percent: | | | | |
| Aitkin | 1,800 | (2) | 4,700 | 3,819.00 |
| Albany | 1,600 | (2) | 5,850 | 154.00 |
| Blooming Prairie | 1,800 | | 8,300 | 458.00 |
| Frazee | 1,000 | (3) | 6,500 | 22.00 |
| Le Sueur | 3,800 | (1) | 7,600 | 362.00 |
| Owatonna | 15,300 | | 8,300 | 126.00 |
| Pelican Rapids | 1,800 | (1) | 5,900 | 3,056.00 |

## AFFECTED COMMUNITIES, 1982–85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Perham | 2,000 | (1) | 5,900 | 1,169.00 |
| Sleepy Eye | 3,400 | | 7,200 | 80.00 |
| Spring Valley | 2,600 | | 7,800 | 370.00 |
| Weseca | 6,800 | | 7,400 | 45.00 |
| Well | 2,800 | | 7,800 | 246.00 |
| Worthington | 800 | | 7,600 | 8,250.00 |
| Duluth | 110,000 | (2) | 7,500 | 50.00 |
| Minneapolis-St. Paul | 1,800,000 | | 9,900 | 35.00 |
| Mississippi unemployment rate 6.8 percent: | | | | |
| Biloxi | 89,300 | | 6,100 | 97.00 |
| Clarksdale | 21,700 | | 4,700 | 51.00 |
| Corinth | 11,600 | (2) | 5,900 | 521.00 |
| Hattiesburg | 38,300 | | 5,900 | 72.00 |
| Jackson | 170,000 | | 7,900 | 49.00 |
| Laurel | 24,100 | | 6,000 | 167.00 |
| McComb | 12,000 | (1) | 4,700 | 115.00 |
| Morton | 3,000 | | 5,200 | 550.00 |
| Ocean Springs | 10,000 | (2) | 6,200 | 87.00 |
| Pearl | 10,000 | | 5,800 | 19.00 |
| Montana unemployment rate 5.3 percent: | | | | |
| Hamilton | 3,000 | (2) | 5,400 | 92.00 |
| Nebraska—No information was available. | | | | |
| Nevada unemployment rate 6.4 percent: | | | | |
| Carson City | 32,000 | (2) | 9,600 | 26.00 |
| Las Vegas | 196,000 | (2) | 9,000 | 3.00 |
| Reno/Sparks | 130,000 | | 11,200 | 3.00 |
| New Hampshire unemployment rate 4.5 percent: | | | | |
| Lincoln | 1,300 | (1) | 7,400 | 2,623.00 |
| Manchester | 84,600 | (1) | 7,800 | 255.00 |
| New Jersey unemployment rate 6.8 percent: | | | | |
| Bayshore | 65,000 | (2) | 7,800 | 47.00 |
| Cinnaminson | 26,000 | | 7,400 | 107.00 |
| East Windsor | 40,000 | | 8,500 | 23.00 |
| Ewing-Lawrence | 55,000 | | 8,500 | 11.00 |
| Landis | 47,600 | (2) | 7,500 | 150.00 |
| Linden-Rosell | 25,000 | (1) | 9,600 | 64.00 |
| Lepatcong | 39,000 | | 7,700 | 14.00 |
| Manasquan | 60,000 | | 8,600 | 118.00 |
| Mapleshade | 36,000 | | 7,500 | 57.00 |
| North Burlington | 84,000 | | 7,500 | 34.00 |
| Raritan | 9,000 | | 10,700 | 173.00 |
| Rochaway Valley | 59,000 | | 10,100 | 22.00 |
| Morris | 10,000 | | 10,100 | 427.00 |
| Morris | 20,000 | | 10,100 | 115.00 |
| Camden | 485,000 | | 7,700 | 415.00 |
| Elizabeth | 500,000 | (2) | 9,600 | 17.00 |
| Gloucester | 277,000 | | 6,800 | 11.00 |
| Hudson | 605,000 | (2) | 8,100 | 59.00 |
| Middlesex | 100,000 | | 9,100 | 1,290.00 |
| Passaic Valley | 250,000 | (2) | 8,300 | 199.00 |
| Rahway Valley | 200,000 | (2) | 9,600 | 122.00 |
| Somerset-Raritan | 126,000 | | 10,800 | 22.00 |
| Trenton | 264,000 | | 8,500 | 45.00 |
| New Mexico unemployment rate 7.7 percent: | | | | |
| Las Cruces | 95,000 | | 5,700 | 7.00 |
| Roswell | 120,000 | | 6,200 | 20.00 |
| New York unemployment rate 7.3 percent: | | | | |
| Auburn | 46,000 | (3) | 6,500 | 19.00 |
| Avon | 3,000 | | 6,600 | 587.00 |
| Batavia | 18,000 | (3) | 7,000 | 108.00 |
| Blasdell | 4,000 | (3) | 7.700 | 323.00 |
| Canastota | 5,000 | (3) | 6,100 | 2,772.00 |
| Champlain-Rouses | 4,000 | (3) | 5,300 | 536.00 |

## AFFECTED COMMUNITIES, 1982–85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Cuba | 2,000 | (3) | 5,600 | 5,857.00 |
| Dundee | 2,000 | | 6,200 | 916.00 |
| Endicott | 17,000 | | 7,500 | 176.00 |
| Fort Edwards | 4,000 | (3) | 5,900 | 832.00 |
| Fulton | 15,000 | (3) | 6,300 | 1,125.00 |
| Gloversville | 27,000 | (3) | 6,300 | 2,096.00 |
| Granville | 3,000 | (3) | 5,900 | 69.00 |
| Heuvelton | 1,000 | (3) | 5,500 | 605.00 |
| Ithaca | 27,000 | | 6,600 | 608.00 |
| Kingston | 26,000 | (3) | 7,100 | 85.00 |
| Lake George | 1,000 | (3) | 7,200 | 11,275.00 |
| Orange | 230,000 | (3) | 7,400 | 10.00 |
| Rochester | 300,000 | (3) | 8,900 | 116.00 |
| Syracuse | 200,000 | (3) | 7,500 | 23.00 |
| Yonkers | 205,000 | | 11,300 | 8.00 |
| Norwich | 9,000 | (3) | 6,100 | 87.00 |
| Oswego | 21,000 | (3) | 6,300 | 62.00 |
| Orangeburg | 3,500 | | 9,000 | 354.00 |
| Port Jefferson | 8,000 | | 7,900 | 113.00 |
| Seneca Falls | 8,000 | | 7,000 | 847.00 |
| Silver Creek | 3,500 | (3) | 6,900 | 1,257.00 |
| White Plains | 51,000 | | 11,200 | 1.00 |
| Wilson | 1,500 | (3) | 6,700 | 1,467.00 |
| North Carolina unemployment rate 6.3 percent: | | | | |
| Asheboro | 10,800 | | 7,000 | 432.00 |
| Durham | 95,500 | | 7,600 | 26.00 |
| Forest City | 7,200 | (1) | 5,900 | 191.00 |
| Greenville | 29,100 | (1) | 6,100 | 38.00 |
| High Point | 63,200 | (1) | 8,300 | 22.00 |
| Lexington | 17,200 | (2) | 6,900 | 303.00 |
| Morganton | 33,600 | | 6,600 | 467.00 |
| New Bern | 14,700 | (2) | 6,200 | 75.00 |
| Randleman | 2,300 | | 7,000 | 957.00 |
| Roanoke Rapids | 13,500 | (2) | 5,000 | 407.00 |
| Roxboro | 5,400 | (3) | 5,900 | 458.00 |
| Thomasville | 15,200 | (3) | 6,900 | 54.00 |
| Buncombe | 145,000 | | 6,700 | 85.00 |
| Charlotte | 241,000 | | 8,500 | 10.00 |
| Winston-Salem | 133,000 | | 8,300 | 66.00 |
| North Dakota unemployment rate 4.3 percent: | | | | |
| Fargo | 72,000 | | 8,600 | 3.00 |
| West Fargo | 15,500 | | 8,600 | 13.00 |
| Ohio unemployment rate 8.1 percent: | | | | |
| Alliance | 25,800 | (2) | 7,700 | 28.00 |
| Ashland | 20,300 | (2) | 7,200 | 108.00 |
| Avon Lake | 12,500 | (2) | 7,900 | 418.00 |
| Barberton | 27,000 | (2) | 8,000 | 117.00 |
| Bedford Heights | 12,000 | (2) | 9,500 | 50.00 |
| Bellefontaine | 11,000 | (2) | 7,600 | 525.00 |
| Berea | 20,000 | (2) | 9,500 | 6.00 |
| Bryan | 7,000 | (2) | 7,900 | 118.00 |
| Conneaut | 15,000 | (2) | 7,000 | 35.00 |
| Clyde | 6,100 | (2) | 7,400 | 361.00 |
| Defiance | 16,000 | (2) | 8,400 | 132.00 |
| Delaware | 20,000 | | 7,200 | 48.00 |
| Easterly | 24,000 | (2) | 9,500 | 74.00 |
| Elyria | 32,000 | (2) | 7,900 | 120.00 |
| Euclid | 60,000 | | 9,500 | 115.00 |
| Findlay | 38,000 | | 8,100 | 111.00 |
| Ironton | 14,000 | (2) | 5,900 | 479.00 |
| Jackson | 7,000 | (2) | 5,200 | 334.00 |
| Lancaster | 40,000 | (2) | 7,400 | 31.00 |

## AFFECTED COMMUNITIES, 1982–85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Mansfield | 57,000 | (2) | 7,400 | 93.00 |
| Marietta | 16,000 | (2) | 6,600 | 138.00 |
| Maryville | 8,000 | (3) | 6,800 | 223.00 |
| Mentor | 42,000 | (4) | 8,100 | 42.00 |
| Miami District | 11,000 | (2) | 8,400 | 125.00 |
| Middletown | 48,000 | (2) | 7,100 | 327.00 |
| Montgomery Co. | 52,000 | | 8,200 | 116.00 |
| Newark | 40.000 | (2) | 7,000 | 323.00 |
| Norwalle | 14,000 | (2) | 7,300 | 102.00 |
| Orrville | 8,000 | | 7,000 | 103.00 |
| Piqua | 20,000 | (2) | 8,400 | 151.00 |
| Sidney | 18,000 | (2) | 7,200 | 112.00 |
| Springfield | 73,400 | (2) | 7,300 | 33.00 |
| Akron | 240,000 | (3) | 8,000 | 264.00 |
| Columbus | 524,000 | | 7,700 | 115.00 |
| Dayton | 195,000 | (3) | 8,200 | 253.00 |
| Oklahoma unemployment rate 5.1 percent: | | | | |
| Anadorko | 7,000 | | 5,500 | 221.00 |
| Ardmore | 40,700 | | 6,900 | 103.00 |
| Guymon | 12,200 | | 11,300 | 349.00 |
| Jay | 3,500 | (1) | 4,400 | 558.00 |
| Midwest | 77,000 | | 8,500 | 7.00 |
| Stillwell | 32,000 | (2) | 3,700 | 3.00 |
| Westville | 1,200 | (2) | 3,700 | 1,352.00 |
| Norman | 112,000 | | 6,300 | 3.00 |
| Tulsa | 270,000 | | 9,200 | 3.00 |
| Oregon unemployment rate 8 percent: | | | | |
| Eugene | 80,000 | (2) | 7,400 | 21.00 |
| St. Helens | 7,000 | (2) | 7,600 | 1,964.00 |
| Springfield | 30,000 | (3) | 7,400 | 8.00 |
| Portland | 400,000 | | 10,000 | 2.00 |
| Pennsylvania unemployment rate 7.7 percent: | | | | |
| Berwick | 12,000 | (2) | 6,100 | 120.00 |
| Hanover | 30,000 | | 7,800 | 128.00 |
| Lower Wissahickon | 10,000 | | NA | 1,240.00 |
| New Holland | 5,000 | | 7,800 | 457.00 |
| Springettsbury | 87,000 | (2) | NA | 221.00 |
| West Chester | 20,000 | | 9,000 | 367.00 |
| York | 75,000 | (2) | 7,800 | 26.00 |
| Lancaster | 308,000 | | 7,800 | 11.00 |
| Wyoming Valley | 300,000 | (3) | 6,100 | 4.00 |
| Rhode Island unemployment rate 5.9 percent: | | | | |
| Bristol | 15,000 | | 8,100 | 189.00 |
| East Greenwich | 2,500 | | 7,900 | 1,969.00 |
| Warwick | 10,500 | | 7,900 | 523.00 |
| West Warwick | 18,000 | (1) | 7,900 | 129.00 |
| South Carolina unemployment rate 6.7 percent: | | | | |
| Fort Mill | 4,500 | (2) | 6,700 | 53.00 |
| North Charleston | 61,200 | (1) | 6,800 | 66.00 |
| South Dakota unemployment rate 4.9 percent: | | | | |
| Hoven | 700 | | 7,500 | 197.00 |
| Huron | 13,000 | | 7,000 | 12.00 |
| Madison | 7,000 | (1) | 6,700 | 196.00 |
| Pollock | 400 | | 6,500 | 2,406.00 |
| Rapid City | 46,000 | (1) | 7,000 | 16.00 |
| Tennessee unemployment rate 6 percent: | | | | |
| Chattanooga | 130,000 | (2) | 8,000 | 425.00 |
| Knoxville | 180,000 | | 6,900 | 80.00 |
| Memphis | 700,000 | | 7,600 | 19.00 |
| Nashville | 400,000 | | 8,500 | 61.00 |

### AFFECTED COMMUNITIES, 1982–85—Continued

| State and community affected | Estimated population affected | October 1980 unemployment rate | 1978 per capita personal income | Estimated industrial portion per household |
|---|---|---|---|---|
| Texas unemployment rate 4.4 percent: | | | | |
| Brenham | 10,500 | | 7,300 | 760.00 |
| Corsicana | 22,800 | | 7,300 | 49.00 |
| Sulphur Springs | 11,600 | | 6,700 | 122.00 |
| Vernon | 11,500 | | 7,000 | 87.00 |
| Amarillo | 137,500 | | 8,800 | 40.00 |
| San Antonio | 879,000 | | 6,600 | 137.00 |
| Utah unemployment rate 6.1 percent: | | | | |
| Cental Weber | 192,000 | | 6,900 | 9.00 |
| Salina | 2,000 | | 5,800 | 576.00 |
| Vermont unemployment rate 6.4 percent: | | | | |
| Bennington | 12,500 | (2) | 7,100 | 110.00 |
| St. Albans | 8,000 | | 6,100 | 216.00 |
| Swanton | 3,000 | | 6,100 | 183.00 |
| Troy | 600 | (2) | 5,400 | 3,007.00 |
| Virginia unemployment rate 5.1 percent: | | | | |
| Pepper's Ferry | 30,000 | (2) | NA | 69.00 |
| Waynesboro | 14,000 | (2) | NA | 65.00 |
| Washington unemployment rate 7.5 percent: | | | | |
| Walla Walla | 23,000 | | 8,000 | 26.00 |
| Prosser | 10,000 | (2) | 9,000 | 289.00 |
| West Virginia unemployment rate 8.7 percent: Martinsburg | 1,500 | | 6,600 | 37.00 |
| Wisconsin unemployment rate 6.3 percent: | | | | |
| Butte Des Morts | 5,100 | (1) | 7,800 | 205.00 |
| Plymouth | 6,100 | | 7,800 | 969.00 |
| Abbotsford | 1,900 | (2) | 5,700 | 188.00 |
| Marshfield | 17,500 | (1) | 7,400 | 432.00 |
| Beaver Dam | 14,500 | (2) | 7,000 | 2,181.00 |
| Madison | 170,000 | | 8,000 | 242.00 |
| Milwaukee | 725,000 | | 8,700 | 687.00 |
| Wyoming—Not affected. | | | | |
| American Samoa American Samoa | 35,000 | | NA | 157.00 |
| Guam—Not affected. | | | | |
| North Marianas—Not affected. | | | | |
| Puerto Rico: | | | | |
| San Juan | 450,000 | | NA | 30.00 |
| Bayamon | 180,000 | | NA | 46.00 |
| Pacific Trust Territories—Not affected. | | | | |
| Virgin Islands—Not affected. | | | | |

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[1] Exceeds State rate yet below national rate.
[2] Exceeds national rate yet below State rate.
[2] Exceeds national rate which exceeds State rate.
[3] Exceeds State rate which exceeds national rate.

Population: From 1970 census or latest available.
Unemployment: The October 1980 unemployment rate for the county in which the community is located (unemployment rate under State).
Income: 1978 per capita personal income from U.S. Department of Commerce.
Industrial Portion: Industrial portion derived from State reported data.
Household is based on U.S. Census Report of an average of 2.75 persons per household from March 1980.

The Committee held hearings on the industrial cost exclusion and received testimony and other material from a large number of industries, cities, trade and professional associations, and the Environmental Protection Agency. Testimony was overwhelmingly in favor of repealing the industrial cost exclusion. On the basis of the EPA study, the testimony of all those concerned, and our own examination of the issue, the Committee concludes that the industrial cost exclusion should be repealed. All available evidence indicates that it is arbitrary, inequitable, and not likely to produce significant cost savings to the Federal government. In many cases the effects are worse than those which the elimination of the industrial cost recovery requirement was intended to avoid. Industries will in some cases close down or remove themselves from municipal waste treatment systems and self-treat or move to other cities with excess capacity. Cities will be forced to raise large and unanticipated sums to carry through with their legal requirements to upgrade treatment systems. In both cases, those who have relied on the existing regime in good faith will be confronted with yet another set of retroactive changes in the program, along with all the attendant delays.

Under existing law grant-eligible needs vastly exceed current or projected levels of funding. In view of this fact, the Committee feels that limited construction grant funds must be targeted to insure that the greatest water quality benefits are received for every Federal dollar invested. Reports by the General Accounting Office, review of the program by the Investigations and Oversight Subcommittee, and our own information indicate that many eligible projects being funded produce little water quality benefit, while other projects which are eligible and which would produce the greatest benefit are still awaiting construction. This fact will not be significantly affected by ICE.

It is therefore appropriate for Congress to begin the task of determining which parts of the construction grants program are the most cost effective and which are least. However, no demonstration has been made to date that joint treatment of municipal and industrial wastes, as a general matter, is not cost effective or is an unworthy subject of Federal funding. A strong showing *has* been made that elimination of grant eligibilty for industrial capacity will be extremely disruptive for a large number of communities and in many cases will result in costs which have impacts far beyond the construction grants program. At the same time, EPA's study shows that any savings in grant funds resulting from the industrial cost exclusion are questionable. To allow ICE to remain in the law would be to ignore demonstrated costs in favor of questionable savings.

## ANALYSIS OF H.R. 2957, AS REPORTED

Section 1 of H.R. 2957, as reported, repeals Section 201(k) of the Federal Water Pollution Control Act, which eliminated construction grant funding of industrial capacity over 50,000 gallons per day sanitary waste equivalent after November 15, 1981.

Section 2 extends the present allotment formula for the construction grants program through Fiscal Year 1982. Subsection (b) extends for a like period the provision that no State shall receive less than one-half of 1 percent of the total allotment (not more than thirty-three one-hundredths of 1 percent in the aggregate to Guam, the Virgin Islands, American Samoa and the Trust Territories). An additional $75 million per year is provided for this purpose in the basic Act.

Section 3 extends for one year through Fiscal Year 1982 the innovative and alternative technology provisions of the Federal Water Pollution Control Act. These provisions set an 85 percent Federal share of the construction costs of treatment works using innovative or alternative wastewater treatment processes and techniques. Not less than 3 percent of the funds allotted to a State must be expended only for increasing the Federal share of grants for these treatment works from 75 percent to 85 percent.

Section 4 directs the Administrator of the Environmental Protection Agency to allot to the State of New York from Fiscal Year 1982 appropriations an amount necessary to pay the entire cost of conveying sewage from the New York City Convention Center to the Newton Sewer Treatment Plant in Brooklyn. The Convention Center, expected to be completed in 1983, will discharge raw sewage into the Hudson River until completion of the Newton waste treatment facility which is scheduled for 1988. The amendment will ensure that this sewage from the convention center is treated at an alternative facility in the interim.

Section 5 provides that the amendments made by this legislation shall not apply to any fiscal year which begins before October 1, 1981.

## COMPLIANCE WITH CLAUSE 2(l)(3)(A) OF RULE XI OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Investigations and Oversight held hearings October 30, 31, and November 1, 1979, on the municipal wastewater construction grants program. Hearings were also conducted on the toxics control and pretreatment programs on June 18, 19, 24, 25 and 26, 1980. Additional hearings on the performance of municipal wastewater treatment plants constructed with the assistance of Federal grant funds were held on March 19, 1981. In addition, the Subcommittee on Water Resources held hearings on the subject matter of this legislation, which hearings resulted in the reported bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the House of Representatives the bill, as reported, does not provide new budget authority or increased tax expenditures. Accordingly, a statement pursuant to section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the committee has received an estimate and comparison by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act. The report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., May 19, 1981.*

Hon. JAMES J. HOWARD,
*Chairman, Committee on Public Works and Transportation,*
*House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2957, a bill to amend the Federal Water Pollution Control Act to delete the limitation on the use of public treatment works grants for treating, storing, or conveying the flow of industrial users into treatment works, and for other purposes, as ordered reported by the House Committee on Public Works and Transportation, May 12, 1981.

The bill repeals the prohibition against the use of federal construction grant funds to provide capacity in municipal treatment plants for treating, storing, or conveying a flow of more than 50 thousand gallons per day of any industrial user's waste. That restriction was added as an amendment to the Federal Water Pollution Control Act (FWPCA) in October 1980. In addition, the bill extends, through fiscal year 1982, the existing state allotment formula for sewage construction grant funds, and the current provision for 85 percent federal funding of projects that use innovative or alternative processes and techniques. Finally, the bill directs the Administrator of the Environmental Protection Agency (EPA) to allot to the State of New York the necessary funds, from 1982 appropriations, to convey sewage from the New York City Convention Center to the Newtown Sewer Treatment Plant in Brooklyn, New York.

The convention center, currently under construction, is scheduled to be completed in 1983; a wastewater treatment facility closer to the center is scheduled to be completed in 1988. The EPA estimates that construction of the transport capacity will cost $1.2 million over two years.

While repeal of the industrial cost exclusion provision increases the potential demand for EPA construction grant funds by several billion dollars over the next two decades or more, this bill does not increase authorization levels above those in existing law. As a result, while its provisions may affect the type of projects on which funds are spent, the legislation does not require any increase in funding and thus results in no direct additional cost to the federal government.

Sincerely,

ALICE M. RIVLIN, *Director.*

(4) With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the following information is provided: The effect of carrying out H.R. 2957, as reported, should be minimal with respect to prices and cost.

## COST OF LEGISLATION

Rule XIII(7) of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 2957, as amended, in Fiscal Year 1981 and each of the following five years. H.R. 2957, as reported, authorizes no new appropriations. It merely continues beyond November 15, 1981, funding under the Act to address a category of water pollution need that would no longer be funded by the Construction Grants Program if ICE became effective. Actual program expenditures will continue to be determined by the level of appropriations under existing authorities and the Congressional Budget Act. As the Environmental Protection Agency concludes in its report on ICE, in the short term, any savings to the Federal government associated with ICE will probably be eliminated by ICE-induced project delays. In addition, to the extent that industries choose to construct their own treatment facilities rather than use publicly owned facilities, there will be a reduction in corporate tax revenues collected by the Federal government because of the effects of existing tax laws on corporate expenditures.

## COMMITTEE ACTION AND VOTE

The Committee in compliance with rule XI(2)(1)(2)(A), reports favorably the bill H.R. 2957, as amended. The Committee ordered the bill reported by voice vote.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## FEDERAL WATER POLLUTION CONTROL ACT

* * * * * * *

## TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

### PURPOSE

SEC. 201. (a) * * *

* * * * * * *

[(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.]

### FEDERAL SHARE

SEC. 202. (a)(1) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator), unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall upon the request of the applicant, be increased to the applicable percentage under this section.

(2) The amount of any grant made after September 30, 1978, and before October 1, [1981,] *1982,* for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be 85 per centum of the cost of construction thereof, unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to made a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures.

(4) For the purposes of this section, the term "eligible treatment works" means those treatment works in each State which meet the requirements of section 201(g)(5) of this Act and which can be fully funded from funds available for such purpose in such State in the fiscal years ending September 30, 1979, September 30, 1980, [and] September 30, 1981, *and September 30, 1982.* Such term does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.

* * * * * * *

### ALLOTMENT

SEC. 205. (a) * * *

* * * * * * *

(c) Sums authorized to be appropriated pursuant to section 207 for the fiscal years during the period beginning October 1, 1977, and ending September 30, [1981,] *1982,* shall be alloted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act of 1977. Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, [and] September 30, 1981, *and September 30, 1982,* shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

* * * * * * *

(e) For the fiscal years 1978, 1979, 1980, [and] 1981, *and 1982,* no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more that thiry-three one-hundreths of 1 per centum in the aggregate shall be alloted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980 [and] 1981, *and 1982.* If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

* * * * * * *

(i) Not less than one-half of one per centum of funds alloted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, [and] September 30, 1981, *and September 30, 1982,* under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds alloted to a State for each of the fiscal years ending September 30, 1979 and September 30, 1980, and 3 per centum of the funds alloted to a State for the [fiscal year ending September 30, 1981], *fiscal years ending September 30, 1981, and September 30, 1982,* under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 202 (a)(2) of this Act.

*(j) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, and amount necessary to pay the entire cost of conveying sewage from the Convention Center of the City of New York to the Newton Sewage Treatment Plant, Brooklyn-Queens area, New York. The amount alloted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be alloted to such State under this Act.*

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## Union Calendar No. 72

97TH CONGRESS
1ST SESSION

# H. R. 2957

**[Report No. 97-90]**

To amend the Federal Water Pollution Control Act to delete the limitation on the use of public treatment works grants for treating, storing, or conveying the flow of industrial users into treatment works.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1981

Mr. HOWARD (for himself, Mr. CLAUSEN, Mr. ROE, and Mr. HAMMERSCHMIDT) introduced the following bill; which was referred to the Committee on Public Works and Transportation

MAY 19, 1981

Additional sponsors: Mr. YOUNG of Missouri and Mr. SOLOMON

MAY 19, 1981

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To amend the Federal Water Pollution Control Act to delete the limitation on the use of public treatment works grants for treating, storing, or conveying the flow of industrial users into treatment works.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* ~~That section 201(k) of the Federal Water Pollution Control Act (33 U.S.C. 1281(k)) is hereby repealed.~~ *That section 201(k) of the Federal Water Pollution Control Act (33 U.S.C. 1281(k)) is hereby repealed.*

*Sec. 2. (a) Section 205(c) of the Federal Water Pollution Control Act is amended by striking out "ending September 30, 1981," and inserting in lieu thereof "ending September 30, 1982," and by striking out "and September 30, 1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982,".*

*(b) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1981" each of the two places it appears and inserting in lieu thereof at each such place "1981, and 1982".*

*Sec. 3. (a) Section 202(a)(2) of the Federal Water Pollution Control Act is amended by striking out "1981" and inserting in lieu thereof "1982".*

*(b) Section 202(a)(4) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1981." and inserting in lieu thereof "September 30, 1981, and September 30, 1982.".*

*(c) Section 205(i) of the Federal Water Pollution Control Act is amended by striking out "and September 30,*

*1981," and inserting in lieu thereof "September 30, 1981, and September 30, 1982," and by striking out "fiscal year ending September 30, 1981," and inserting in lieu thereof "fiscal years ending September 30, 1981, and September 30, 1982,".*

*SEC. 4. Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:*

*"(j) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.".*

*SEC. 5. This Act, and the amendments made by this Act, shall not apply to any fiscal year which begins before October 1, 1981.*

# CHAPTER VII

## PUBLIC LAW 96-483

TEXT OF CLEAN WATER ACT AMENDMENT (*PUBLIC LAW 96-483*); SENATE AND HOUSE DEBATE AND PASSAGE OF S. 2725, OCTOBER 1980; SENATE DEBATE AND PASSAGE OF S. 2725, JUNE 1980; SENATE COMMITTEE REPORT ON S. 2725 (*SENATE REPORT NO. 96-744*); S. 2725, AS REPORTED; HOUSE COMMITTEE REPORT ON H.R. 6667 (*HOUSE REPORT NO. 96-983*); H.R. 6667, AS REPORTED.

**Note:** The 1980 amendments extended certain authorizations in the Clean Water Act. The Senate Environment and Public Works Committee approved and reported a Clean Water Act Extensions bill, S. 2725, on May 15, 1980. The Senate debated and passed the bill, with amendments, June 25, 1980. On October 1, the House considered and passed S. 2725, with amendments, and on that same date the Senate concurred in the House amendments to the bill. President Carter approved S. 2725 on October 21, 1980. The House Public Works and Transportation Committee reported a separate bill, H.R. 6667, on May 15, 1980, but the full House took no action on this bill.

2584

## Public Law 96-483
## 96th Congress

## An Act

Oct. 21, 1980
[S. 2725]

To extend certain authorizations in the Clean Water Act, and for other purposes.

Clean Water Act, amendment. Appropriation authorization. 33 USC 1254.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 104(u) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (1), by inserting after "September 30, 1980," the following: "and not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,";

(2) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982"; and

(3) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, "$1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".

33 USC 1256.

(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by inserting after "1980" a comma and the following: "$75,000,000 per fiscal year for the fiscal years 1981 and 1982".

33 USC 1262.

(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982".

33 USC 1288.

(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by inserting after "1980" a comma and the following: "and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982".

(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, and $100,000,000 for fiscal year 1982".

33 USC 1324.

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982".

33 USC 1376.

(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

33 USC 1284.

SEC. 2. (a) Paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

33 USC 1284.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

Grants.
33 USC 1284 note.
33 USC 1281.

(d) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence.

33 USC 1281.

(e) The second sentence of section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".

33 USC 1293.
33 USC 1284.

(f)(1) Section 75(b) of the Federal Water Pollution Control Act of 1977 (91 Stat. 1610) is hereby repealed.

Repeal.
33 USC 1284 note.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

Repeal.
33 USC 1284 note.

(g) The amendments made by this section shall take effect on December 27, 1977.

Effective date.
33 USC 1281 note.

SEC. 3. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

Grants.
33 USC 1281.

"(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.".

SEC. 4. The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment made by section 3 on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works.

Report to Congress.

SEC. 5. Section 206(f)(1) of the Federal Water Pollution Control Act is amended—

33 USC 1286.

(1) by striking out "In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act" and inserting in lieu thereof "In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this title have been obligated under section 201(g), or will be so obligated in a timely manner (as determined by the Administrator)"; and

33 USC 1283.
33 USC 1281.

(2) by striking out the last sentence thereof and inserting in lieu the following:

"The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year

Applications.

in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year—

"(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

"(B) unless such payment is for a project which, on the basis of an approved funding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 per centum as such appropriations do provide.".

33 USC 1283.

SEC. 6. Section 203(a) of the Federal Water Pollution Control Act is amended (1) by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

33 USC 1285 note.

SEC. 7. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year. This section shall take effect on September 30, 1980.

Effective date.

33 USC 1321.

SEC. 8. Section 311(k) of the Federal Water Pollution Control Act is amended—

(1) by inserting "(1)" after "(k)"; and

Congressional notification.

(2) by adding the following new paragraph at the end thereof:

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

33 USC 1282.

SEC. 9. (a) The first sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to

Guidelines.

33 USC 1285.

reimbursement for the portion of the Federal share reduced in any such State.".

(b) The first sentence of section 202(a)(2) of the Federal Water Pollution Control Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection".

33 USC 1282.

SEC. 10. Title I of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

Contracts and agreements.
33 USC 1266.

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway. No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process.

Grants.

33 USC 1285.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until September 30, 1983. Funds allotted to the State of New York under section 205(a) shall be available under this subsection only to the extent that funds are not available, as determined by the Administrator, to the State of New York for the work authorized by this section under section 115 or 311 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 616(b) of this Act. The Administrator may not obligate or expend more than $20,000,000 to carry out this section.".

33 USC 1265, 1321.

SEC. 11. The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting "of the amount authorized under section 207 of this title for purposes" after "2 per centum".

33 USC 1285.

Cleanup grants.
33 USC 1257a.

SEC. 12. The Administrator of the Environmental Protection Agency is authorized to make grants to States to undertake a demonstration program for the cleanup of State-owned abandoned mines which can be used as hazardous waste disposal sites. The State shall pay 10 per centum of project costs. At a minimum, the Administrator shall undertake projects under such program in the States of Ohio, Illinois, and West Virginia. There are authorized to be

Appropriation authorization.

**appropriated $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to carry out this section. Such projects shall be undertaken in accordance with all applicable laws and regulations.**

Approved October 21, 1980.

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LEGISLATIVE HISTORY:

SENATE REPORT No. 96-744 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
Oct. 1, considered and passed House, amended; Senate concurred in House amendment.

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# SENATE DEBATE ON S. 2725

*October 1, 1980*
(Congressional Record, vol. 126, part 22, 28856-28859)

## EXTENSION OF CERTAIN AUTHORIZATIONS IN THE CLEAN WATER ACT

**Mr. ROBERT C. BYRD.** Mr. President, on behalf of Mr. RANDOLPH, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2725.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2725) entitled "An Act to extend certain authorizations in the Clean Water Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

that (a) section 104(u) of the Federal Water pollution Control Act is amended—

(1) in paragraph (1), by inserting after "September 30, 1980," the following: "and not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,";

(2) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982"; and

(3) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".

(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by inserting after "1980" a comma and the following: "$75,000,000 per fiscal year for the fiscal years 1981 and 1982".

(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982".

(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by inserting after "1980" a comma and the following: "and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982".

(c) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, and $100,000,000 for fiscal year 1982".

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, and $30,000,000 for fisral year 1982".

(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

SEC. 2. (a) Paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraph (4) and (5) as paragraphs (3) and (4), respectively.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act after March 1, 1978, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

(d) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence.

(e) The second sentence of section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".

(f)(1) Section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

SEC. 3. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980."

SEC. 4. The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment made by section 4 on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works.

SEC. 5. Section 208(f)(1) of the Federal Water Pollution Control Act is amended—

(1) by striking out "In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act" and inserting in lieu thereof "In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this title have been obligated under section 201(g), or will be so obligated in a timely manner (as determined by the Administrator)"; and

(2) by striking out the last sentence there-

of and inserting in lieu the following:

"The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year—

"(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

"(B) unless such payment is for a project which, on the basis of an approved funding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 per centum as such appropriations do provide.".

Sec. 6. Section 203(a) of the Federal Water Pollution Control Act is amended (1) by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

Sec. 7. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year. This section shall take effect on September 30, 1980.

Sec. 8. Section 311(k) of the Federal Water Pollution Control Act is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding the following new paragraph at the end thereof:

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

Sec. 9. (a) The first sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State."

(b) The first sentence of section 202(a)(2) of the Federal Water Pollution Control Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursued to paragraph (1) of this subsection".

Sec. 10. Title I of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"Sec. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated nation waterway. No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until September 30, 1983.

Funds allotted to the State of New York under section 205(a) shall be available under this subsection only to the extent that funds are not available, as determined by the Administrator, to the State of New York for the work authorized by this section under section 115 or 311 of this Act or a comprehensive hazardous substance response and cleanup fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 516(b) of this Act. The Administrator may not obligate or expend more than $20,000,000 to carry out this section.".

Sec. 11. The first sentence of section 206(g)(1) of the Federal Water Pollution Control Act is amended by inserting "of the amount authorized under section 207 of this title for purposes" after "2 per centum".

Sec. 12. The Administrator of the Environmental Protection Agency is authorized to make grants to States to undertake a demonstration program for the cleanup of State-owned abandoned mines which can be used as hazardous waste disposal sites. The

**State shall pay ten percent of project costs. At a minimum, the Administrator shall undertake projects under such program in the States of Ohio, Illinois, and West Virginia. There are authorized to be appropriated $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to carry out this section. Such projects shall be undertaken in accordance with all applicable laws and regulations.**

Mr. ROBERT C. BYRD. Mr. President, Mr. Stafford may wish to speak to the message.

Mr. STAFFORD. Mr. President, I thank the majority leader for yielding this time to me.

I am delighted that the differences between the House and Senate on this legislation have been worked out and that we are now in a position to pass the legislation. There is a deadline in the legislation for EPA to complete the investigation. I want to put EPA on notice that it will be the intention of the Senator from Vermont and others, I am sure, to insist that that deadline date be met for the completion of the necessary investigation and report to the committees of the House and Senate who are involved in this matter.

I thank the majority leader for yielding.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, on behalf of Mr. Randolph, I move that the Senate concur in the amendments of the House.

Mr. CHAFEE. Mr. President, I join in the request that the Senate concur in the House amendments.

Mr. President, if there is one issue having ramifications for Rhode Island, particularly the city of Woonsocket, that I am pleased to see finally settled, it is the issue of industrial cost recovery in the Clean Water Act. If there is one Water Act issue having a significant burning effect on our small businesses, especially textiles, our cities and towns, our food processors and general manufacturers, it is ICR.

Of course the legislation we are considering here deals with many sections of the Water Act, but ICR is the one which has occupied the greatest amount of my attention.

S. 2725 repeals ICR. I might add that the repeal is probably the one issue that the House and Senate agreed upon in this clean water reauthorization bill. The Senate had voted repeal of the provision earlier on in its reauthorization bill. S. 2725 which we are considering tonight. The story of how we got here is an interesting one, to say the least.

ICR was originally enacted in the 1972 clean water legislation. The provision requires that industrial users of a municipal sewage plant pay for that portion of the Federal share of the plant's construction costs which is attributable to the treatment of the industrial wastes. The administrative burden falls on the towns and cities who must collect these charges. Because of these administrative burdens and harsh economic effects on our industries the Congress mandated a moratorium on ICR in the 1977 clean water amendments and required the Environmental Protection Agency to study the effects of ICR on industry and communities, both in rural areas and in economically distressed or high unemployment regions.

The conclusion of that study was submitted to the Congress in January 1979. The EPA Administrator determined that ICR is not doing its job. The provision fails to accomplish the purposes that were outlined in that original study; namely, parity, water conservation, appropriate capacity, and self-sufficiency.

The EPA study did not contain horror stories of closed plants or lost jobs. But ICR is indeed a factor when an industry decides whether to expand or locate a new plant in a particular area. So we are talking about a loss of potential jobs in a community, if that community must assess an ICR charge because of construction grant expenditures after 1973. I also firmly believe that ICR is one of a combination of factors that causes a marginal business to shut down and employees to lose their jobs. I've heard it with my own ears, from the Rhode Island textile industry. We do not want to lose what industry and jobs we do have in communities such as Woonsocket. I cannot stand here and watch that happen.

Last session I introduced an ICR repeal bill, S. 901. In December 1979 the Congress voted to extend the ICR moratorium until June 1980. Even EPA had recommended such an extension.

This past April, along with Senator Bentsen, Senator Pressler, and Senator Cochran, I again introduced ICR legislation. This was after the Senate Environment and Public Works Committee, particularly the Environmental Pollution Subcommittee held hearings in March of this year on the ICR provision.

At that time, the EPA, local officials, industries, and other groups presented their thoughts on ICR. The cities of Nashville and Dallas, both members of the association of metropolitan sewerage agencies, testified strongly in favor of repeal. Representatives of the textile, food processors, brewers, and the pulp and paper industries likewise wanted repeal.

The Senate Environment Committee voted to repeal ICR and the full Senate agreed. The repeal was added to a pending clean water reauthorization bill, the subject which we are addressing today. The House committee had also included repeal in their bill, and our Environment and Public Works Committee has reached agreement with the House on the items which were in disagreement in the two bills * * * so that if we act today, there will be no need for a conference.

We can send to the President a bill which reauthorizes important sections of clean water legislation, including the rural clean water program, repeals ICR, and mandates the EPA to do a study for the Congress on construction grant funding problems and suggestions.

There is no doubt that we have a lot of issues still to confront in the sewage treatment program. Each year the appropriations are considerably less than the authorized level for the construction grant program. Some suggestions for construction grant reform came out during our ICR hearings * * * from environmental groups, cities, and industry. I am talking about such items as holding capacity down, requiring local governments to pay for future plant needs if the grant program goes out of existence, and tightening up cost effectiveness guidelines.

We will need the help of all the groups I mentioned in creatively coming up with ways to get the grant money out to the greatest treatment needs. This effort will be undertaken in line with the Congress review of the Clean Water Act over the next 2 years.

Thus, the studv of the grant program mandated in the legislation we are considering today will be of great use to the Senate Environment Committee in this review.

There is another section of this legislation which will be a tremendous boost to getting our municipal treatment needs accomplished. It is a provision to require the Federal Government to reimburse local communities, based on available authorization and appropriations, when such communities go ahead and use their own resources to meet immediate treatment needs through priority projects.

The language in the House bill which we are considering today is relatively the same language as a bill, S. 2872, which I introduced in the Senate on June 24, 1980. Senator PELL joined me as a cosponsor of that legislation.

In my own State of Rhode Island we are facing a crisis. The treatment plant for the city of Providence and surrounding areas was built in the early 1900's. Although the State and the city have made great progress in upgrading this facility, they have a tremendously expensive, federally-mandated project yet to complete.

The price for not renovating and upgrading the Providence plant and dealing with the combined sewer overflow problem would be disaster for our State's greatest natural resource, Narragansett Bay. The bay, which provides our citizens with priceless commercial and recreational opportunities, has become so polluted from wastes that parts of it have been closed to fishing and swimming for most of the year.

Rhode Island and other States, I am sure, need more flexibility in Federal assistance. This idea was strongly impressed on me when I brought Administrator Costle of the EPA to our State last November to view firsthand the serious Providence treatment problem. That is why I introduced S. 2872, which has now been included in this pending legislation and which will encourage States and local communities to move ahead with treatment projects which are clearly priorities.

This provision would help us achieve our clean water goals in a more timely manner and would save taxpayer dollars by avoiding construction cost increases which come with delay. The provision allows States to move ahead and then seek reimbursement from the Federal Government in line with future appropriations and State allotments.

My own State of Rhode Island is seeking in November voter approval of a $87 million bond issue for sewage treatment. This legislation gives Rhode Island the right to recoup some of these expenditures. I would expect that the EPA would certainly give timely and effective consideration to that request.

Mr. President, I applaud the work of both the Senate Environment and Public Works Committee and the House Committee on Public Works and Transportation in reaching agreeemnt on the many pending clean water issues in this bill. Chairman RANDOLPH, Senator BENTSEN, Senator GRAVEL, Senator BAKER, and Senator STAFFORD especially worked for solutions on our side.

With the passage of this bill, the Congress is telling the EPA that their time would be better spent in coming up with constructive ideas on the wastewater treatment grant program, rather than sending out threatening letters of upcoming sanctions if ICR systems are not in place.

We look forward to the prompt submission of this EPA study on the construction grant program and I will join with other members of the Environment Committee and full Senate in investigating whatever further changes to the program may be necessary. Among these will hopefully be changes in the allotment formula, as proposed in legislation, S. 1962, introduced by myself and Senator PELL.

Mr. President, I wish to express my thanks to the ranking member of the Environment and Public Works Committee, Mr. STAFFORD, for his help on this issue. It has been a very difficult one and we are very grateful to him.

I also want to pay tribute to those in the House who worked so hard on it, as well. I think particularly of Representative CLAUSEN, of California, who has been outstanding in his work on it.

Mr. STAFFORD. Mr. President, if the Senator will yield, I would like to thank the Senator from Rhode Island. He was a very tenacious fighter for the question of IRC in the committee and he is a very distinguished member of the Environment and Public Works Committee.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD).

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

# HOUSE DEBATE ON S. 2725

*October 1, 1980*

(Congressional Record, vol. 126, part 22, 28681-28687)

## EXTENDING CERTAIN AUTHORIZATIONS IN CLEAN WATER ACT

**Mr. BREAUX.** Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2725) to extend certain authorizations in the Clean Water Act, and for other purposes.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Louisiana?

**Mr. CLAUSEN.** Mr. Speaker, reserving the right to object, I do so so that the gentleman from Louisiana can at least give us a quick rundown on what is involved.

At this time I yield to the gentleman from New Hampshire (Mr. CLEVELAND).

(Mr. CLEVELAND asked and was given permission to revise and extend his remarks.)

**Mr. CLEVELAND.** Mr. Speaker, I rise in strong support of H.R. 6667 and urge its adoption by a wide enough margin to get the attention of the Senate now, after the elections, in the next Congress or whenever.

This bill contains a number of urgently needed authorizations for the clean water program, some of which I will touch on, plus some substantive amendments which make a great deal of sense to me.

One of the most important—and certainly the most controversial—provisions of H.R. 6667, as reported, is the repeal of the industrial cost recovery requirement originally enacted as part of the 1972 act. It was wrongheaded in concept then and it is wrongheaded today. I hope that the passage of time has made that clear beyond doubt, at least here in the House.

In one sense, industrial cost recovery reflects the myth that, by fine-tuning, we can craft national legislation that will provide perfect equity, perfect equality and perfect uniformity, and impose them on a stubbornly diverse country.

In another sense, it reflects the anti-business sentiment here in Washington that has brought the economy of this country to the sad state it is in.

And in a final sense, it reflects the tunnel vision with which we too often act on legislation—in isolation, ignoring one program as we enact another, or even one provision of a complex framework of legislation while we deal with another.

To be specific, during hearings this past summer before the Public Works Oversight Subcommittee, we documented the fact that another program under the Clean Water Act, pretreatment by certain industrial dischargers whose wastes are treated by municipal systems, is turning out to be totally unworkable.

It will be a disincentive for industries to go to joint treatment with municipalities, which was a basic objective of the act, and to pull out of joint treatment where they have that option. And ICR merely provides another incentive to do just that. The Congress would do well to deal with the pretreatment problem in the next Congress, along with a number of other toxic issues. But for the moment, let us finally put a tin lid on ICR.

While I am on the subject, I want to make it abundantly clear that it is the intent of this repealer that any funds which have been collected from industry while ICR has been in effect be returned to the companies that have coughed up the charges.

Of the authorizations extended by this bill, I want to emphasize the importance of the $100 million for the section 106 grants to State and interstate agencies for administration. The clean water program has imposed an incredible workload on the States in the way of requirements to be met, and the job just cannot be done without appropriate assistance.

As some Members may be aware, some additional funding is made available to the States under section 205(g) of the act, the so-called Celveland-Wright provision. But this is absolutely no substitute for 106 funding. Section 205(g) funds are expressly for the purpose of enabling States to create and maintain staffs to carry out the management of the construction grants program under authority delegated by the Environmental Protection Agency.

In that connection, I proposed an amendment to resolve a problem that has arisen involving the funding of State delegation of the construction grant program. At the time the provision originally was enacted, appropriations were at or near authorized levels, so the 2-percent set-aside of construction grant funds made available for this purpose was based on authorized amounts.

The sharp decline in appropriations in recent years has had the result of shrinking the amounts of 205(g) funds available, causing some States to lay off personnel already on board or freeze staff levels. Other States working toward delegation agreements arrangements with EPA have been forced to take a second look.

My amendment, therefore, ties the 2-percent set-aside to authorized rather than appropriated amounts, thereby restoring some much needed stability to this vital program. It has already passed the House as part of another piece of legislation and I thank the committee for accepting the amendment without dispute as part of the committee package.

Another provision in this bill is a revision of my amendment to allow municipalities to construct wastewater treatment facilities at their own expense and then receive reimbursement from allotments made available in future years. Actually, this is the intent of existing law. But the provision as it now stands is unworkable, and my language of the amendment simply removes that obstacle.

Such a provision is absolutely essential to permit the States which are in a position to move projects to construction rapidly, help achieve the clean-up goals of the act and get a jump on inflation into the bargain.

This should be considered a supplement, not an alternative, to the two-tier authorization mechanism which I authored in this Congress and which passed the House last December, only to be stonewalled in the Senate.

I have, with great reluctance, decided not to offer that provision again as part of this bill, only in the interests of avoiding a deadlock that would jeopardize chances for getting H.R. 6667 approved and sent on to the President. I leave to those who return next year the task of taking the Senate upon its commitment to consider two-tier and the problem of fast-moving States in the next Congress.

A final provision, of which I must confess to authorship, is the language extending the municipal deadline for construction of municipal treatment works until 1985. There is no hope that that deadline can be met, so we may as well be realistic about it and extend the deadline.

Personally, I would have preferred to move it to 1988, but 1985 was all the traffic would bear. However, due to Senate opposition and the need to compromise, this provision has been unceremoniously dropped. I also leave it to those who return in January to solve this problem. This is more than a problem of feasibility, credibility or realism, though those are important considerations and alone more than justify the extension. There are far more grave implications for the program if we leave unrealistic deadlines in place. This gives EPA the opportunity to pick and choose, and play the game of who gets sued, getting the courts into the act and skewing priorities within the States. Such would be contrary to the House position, or at least that of the House Public Works Committee, which has steadfastly held to realistic deadlines adequate funding, and project priority lists under State control.

Mr. Speaker, this is my last water pollution bill as I leave this body after 18 years. In one sense I might have preferred it to be a big barn burner of a bill, but in another sense I do not. It is typical of the kind of job we must do in this Congress, and in each succeeding Congress; to grasp the realities of this program and, bit by bit, piece by piece, try to enact the improvements in a program of vital importance that will never be perfect.

Mr. CLAUSEN. Mr. Speaker, further reserving the right to object, I have two unanimous-consent requests.

I ask unanimous consent that I be permitted to include in the RECORD the statement of the gentlewoman from Massachusetts (Mrs. HECKLER) in strong support of the amendment in the nature of a substitute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Ohio.

(Mr. HARSHA asked and was given permission to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, I rise in strong support of the legislation the gentleman from Louisiana is endeavoring to present to the House.

Mr. Speaker, this legislation has been unanimously approved by the U.S. Senate on a record vote of 93 to 0. A companion House measure, H.R. 6667, was reported unanimously by the Committee on Public Works and Transportation. The committee amendment reflects a compromise which has been worked out by the other body so that we can avoid a conference on the differences in the two bills. While all amendments are vitally important, I would like to emphasize three of the amendments.

First, the committee amendment extends the reallotment deadline for obligation of construction grant funds for 12 months. This extension is vitally important to my State in that they face a loss which may reach $120 million if the amendment is not approved. Last year Ohio lost $33 million to reallotment—the only State to do so. This year other States face the same problem and in spite of EPA's heroic effort to obligate these funds before September 30, some funds will be lost unless this amendment is approved. With the amendment we can build the projects necessary to achieve clean water and keep Ohioans employed in this effort.

Second, Mr. Speaker, this legislation abolishes the industrial cost recovery requirements of the Federal Water Pollution Control Act. The other Members have discussed this provision and I will not duplicate their statements. Suffice it to say the House position in 1972, which questioned the need for ICR, has been vindicated by 8 years of experience. Unfortunately it took an extraordinary long time to reach this conclusion. Hopefully, this will not be repeated when we analyze the impact of the Stafford amendment which abolishes the eligibility for Federal assistance for the industrial capacity of waste water treatment facilities, subject to certain conditions.

Finally, Mr. Speaker, section 12 authorizes a demonstration program to be undertaken by the Administrator of the EPA to make grants to States to clean up abandoned mines and then use these facilities for disposal of hazardous waste. The amendment also specifically requires that demonstration projects be undertaken in the States of Ohio, Illinois, and West Virginia. As the author of this provision, I must state that it is intended that until a project is undertaken in each of these States, no other State shall receive a grant under this authority.

Additionally, I intend that EPA will make a grant to the State for the cleanup effort and that the State will contract with a private operator, to the maximum extent practicable, for the implementation of this program—including the management of the hazardous waste facility. By this I mean that the State could accept the money from the EPA and in effect act in a ministerial fashion and contract out the cleanup work and the day-to-day operation of the hazardous waste facility. It is intended that the hazardous waste facility will receive all appropriate approval under the Resource Conservation Recovery Act, and its regulations concerning hazardous waste facilities. Programs authorized by this amendment will provide funds to reclaim and restore the site after disposal operations cease. It is contemplated that this effort will include contouring, seeding, and other appropriate practices to return the site to as natural condition as possible so that such uses as recreation or timbering could be carried out. This might require the establishment of a bank account at the beginning of this program so that when the facility's useful life is reached, funds will be available for the final restoration effort.

Further, the amendment requires Federal-State cost sharing on a 90–10 basis. The States share of the project cost could include the acquisition costs associated with securing title; that is, lands easements, or rights-of-way, to the mine site. This is consistent with the cost sharing of the water resources development program.

Mr. Speaker, I believe that the compromise worked out today represents the best deal possible in the remaining hours of this session before we adjourn for the elections. I therefore urge my colleagues to adopt this amendment and approve the legislation.

Mr. CLAUSEN. Mr. Speaker, under my reservation of objection I yield to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I would say to the gentleman under his reservation of objection in the matter of explaining to the House what this bill does, the Senate passed this legislation by a vote of 93 to 0 back in July. The Public Works Committee in the House passed this bill in committee by unanimous vote, and has simply not been able to schedule this legislation, which is the reason why we are attempting to try to bring it to the attention of the House tonight, in order that the Senate might act on the legislation this evening.

We have met with the Senate, and they agree with what we bring before the House tonight, and would act on it.

The bill, as has been indicated already, simply extends authorization for appropriations through fiscal year 1982 for a number of programs that are administered by the Environmental Protection Agency. Very importantly, and one of the reasons for the urgency, is that the legislation also repeals the industrial cost recovery, the so-called ICR, provisions of the act. That is very important, because under the existing act industries who use a public municipal sewage facility under the current act have to reimburse the municipality.

EPA has found out that it is simply not working, that they are spending more money trying to recover from the industries, more than they are actually in fact recovering. So, this legislation does repeal that. There has been a moratorium on it since 1977. That is one of the reasons for the rather urgent nature of the legislation.

Mr. CLAUSEN. I thank the gentleman.

Mr. Speaker, I rise in support of the compromise substitute amendment offered by the gentleman from California (Mr. JOHNSON). I would like to commend the gentleman for his bipartisan efforts to resolve a very difficult issue, recognizing that time will not permit a conference on the differences between the Senate and House bills dealing with the abolishment of industrial cost recovery and the extension of certain expiring authorities of the Federal Water Pollution Control Act.

The Committee on Public Works and Transportation and our Senate counterpart have worked out an agreement which is reflected by the committee amendment offered by the gentleman from California. Upon adoption of this measure, I am informed that the Senate will take action to send this bill to the President.

The committee amendment abolishes the industrial cost recovery requirements of the Federal Water Pollution Control Act. In 1977, I offered an amendment to impose a moratorium on the industrial cost recovery requirements of the act and requested that the Environmental Protection Agency prepare an analysis of the impacts of, and need for, ICR.

While EPA conducted the study they did not favor the committee or the Congress with their recommendations and because of their tardiness in furnishing the report the moratorium on ICR had to be extended by Congress last year.

In short, Mr. Speaker, EPA's performance of this effort was totally unsatisfactory. They neither complied with the letter nor the spirit of the mandate of Congress. This is one reason why the committee amendment to H.R. 6667 directs that the analysis of the Stafford amendment, which I will discuss shortly, be conducted by the General Accounting Office. This reflects our dissatisfaction with EPA's performance in response to the congressional need for information on the implementation of the Federal Water Pollution Control Act.

Mr. Speaker, the abolishment of the ICR reflects a decision by the Committee on Public Works and Transportation based upon extensive hearings and analysis of this issue by the Subcommittee on Water Resources on which I have the honor to serve as ranking minority member. Virtually every witness to come before the committee testified in opposition to the continuance of the ICR. The hearings demonstrated that it was discriminatory, inequitable and counterproductive of the goals of the Clean Water Act. This was also the conclusion of our Senate colleagues.

However, certain Members of that body felt that in addition to abolishment of ICR, Congress should remove the eligibility for Federal assistance for that portion of a wastewater treatment facility which would be used to treat industrial waste.

Currently, this capacity is grant eligible with 75 percent of the funding provided by the Federal Government. EPA by letter supported the amendment. However, we are now told through informal conversations with the Agency that they now feel unable to implement the Stafford amendment, that it is administratively unworkable. I also fear that the amendment may adversely impact rural areas. Since these communities have been unable to secure a place on the State priority list that provided funds in a timely manner to build their facilities.

If we abolish ICR today and impose the Stafford amendment we may have this consequence: Those communities which received high priority, and their industries, are receiving 75-percent Federal assistance for their projects for both treatment of industrial and domestic waste. However, after the enactment of the Stafford amendment these communities which are only now moving upon the State priority lists will not receive Federal assistance for the industrial portion of a plant. An obvious discrimination.

Since the Senate is adamant that the Stafford amendment be incorporated in the final product sent to the President, the House has agreed to accept the amendment but stay the implementation date until November 1, 1981. Additionally, we are requiring that EPA conduct an analysis of the impact of this amendment so that we will be assured that it does not unduly discriminate against our Nation's rural areas or any other community for that matter. While I personally believe we should have more time, such as until May 30, 1982, to analyze this matter we must make a decision tonight and, therefore, I reluctantly support the compromise.

I would also observe, Mr. Speaker, that in abolishing the ICR we expect that EPA will require that those municipalities that collected revenues under the ICR mandate to return those funds to those which contributed them. It would be unfair for those which paid into this program to lose those funds now that Congress has finally decided that ICR is in fact discriminatory and should not be a part of the Federal Water Pollution Control Act.

Mr. Speaker, the compromise also contains a provision authorizing the State management assistance funds to be derived from up to 2 percent of authorized allotments for the construction grant program. This is a change in existing law which allows up to 2 percent to derive from funds actually appropriated in any fiscal year. When we enacted the 1977 amendments it was contemplated that Congress would fully fund the construction grant program. That, however, has not been the case and we now have States which are hiring people to manage this program in one year and laying them off in another. This has been the situation in my own State of California. This amendment will resolve the problem once and for all.

Finally, Mr. Speaker, the compromise authorizes a one time expenditure of $20 million, to be taken from the construction grant allotment of the State of New York, to be used to remove PCB's from the Hudson River. This is a recognition that this is a very important environmental problem. As I said, it is a one time assistance which I believe is a dangerous precedent for the construction grant program and which we have reluctantly agreed to in order to have legislation. Our acceptance is only due to the present environmental concerns and the potential adverse public health impacts if no funds are made available that have let us accept this proposition. It is my position that this is more appropriately addressed under "superfund" legislation such as the recently passed Oil and Hazardous Substances Pollution Liability and Compensation Act, but because of the inability of the Senate to enact superfund legislation we have accepted this amendment.

Mr. Speaker, I urge my colleagues to approve this committee proposal as a reasonable compromise on very necessary legislation. It could be better no doubt; yet, in attempting to delay it until after the election we would jeopardize the successful enactment of this bill and, therefore, I urge my colleagues to adopt the committee amendment and send this bill to the President.

Mr. CLAUSEN. I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Speaker, S. 2725 as passed by the Senate extends the authorizations for appropriations through fiscal year 1982 for a number of programs administered by the Environmental Protection Agency. It also repeals the industrial cost recovery (ICR) provisions of the act. H.R. 6667 as reported by our Committee on Public Works and Transportation also extends expiring authorizations and repeals ICR. There are differences in the bills—notably with regard to the repeal of industrial cost recovery. In the Senate bill this repeal is coupled with a provision which would terminate Federal grant assistance for those costs of publicly-owned treatment plants allocable to the treatment of industrial discharges in excess of 50,000 gallons per day.

In view of the short time remaning prior to the congressional recess, and of the need to address the issues of expiring authorizations and the repeal of industrial cost recovery, we have worked very hard to obtain an agreement with the Senate Committee on Environment and Public Works so that this important, legislation could be passed and sent to the President. I am pleased to report that such an agreement has been reached. Our committee considers it to be a reasonable agreement and urges its acceptance by the House.

The amendment to S. 2725 which incorporates this agreement extends for fiscal years 1981 and 1982 the following programs at presently authorized funding levels:

First. Grants for investigations and information gathering—$20.697 million for 1981 and $22.770 for 1982.

Second. Grants for manpower development and training of sewage treatment works operators—$3 million per year.

Third. Grants to develop and maintain a system for forecasting the supply and demand for waste treatment professionals—$1,500,000 per year.

Fourth. Grants to States and interstate agencies to assist them in the administration of programs for the prevention, reduction and elimination of pollution—$75 million per year.

Fifth. Grants to and contracts with universities for undergraduate courses in the design, operation and maintenance of treatment works, together with the award of scholarships by EPA—$7 million per year.

Sixth. Grants for developing and operating section 208 areawide waste treatment management planning processes—$100 million per year.

Seventh. Authority for the "rural clean water program"—authorizing the Secretary of Agriculture to enter into contracts with and provide technical assistance to owners of rural land for control of nonpoint sources of pollution—$100 million per year.

Eighth. Grants to States—up to 70 percent—for classification of the water quality of lakes, and development of methods to control the pollution of lakes and restore their water quality—$30 million per year.

Ninth. General administration of these provisions of the Clean Water Act which are not otherwise specifically funded—$150 million for 1981 and $161 million for 1982.

The amendment also repeals the industrial cost recovery provisions of the act which have been found to be ineffective and unworkable. The termination of Federal grant assistance for the treatment of industrial discharges is made effective as of November 15, 1981. In conjunction with this provision, the Environmental Protection Agency is directed to prepare and submit to the Congress not later than March 15, 1981, a report on the effect of this provision on the construction of publicly owned treatment works, industrial participation in such treatment works, and the appropriate degree of Federal and non-Federal participation in the funding of such treatment works. In addition, all grantees who have received their step 2 grants for engineering and design by May 15, 1980, would be exempted from the provision.

The amendment also contains a provision concerning reimbursement to municipalities which utilise their own resources to construct a municipal wastewater facility. This authorization as contained in existing law has proved unworkable. The provision in the amendment is designed to facilitate its implementation while assuring that the amount of the reimbursement will not exceed a State's allotment and that the project for which reimbursement is sought is on an approved State priority list.

The amendment also increases the construction costs limitations applicable to the combined grant procedure for small projects to $4 million—$5 million in a State with unusually high costs of construction.

The Federal Water Pollution Control Act requires that sums allotted to States be obligated within 2 fiscal years. Many States have had difficulty in obligating their fiscal year 1979 funds, especially those funds which are required to be set aside for innovative and alternative treatment systems and projects in small communities. To address this problem the amendment grants an extension of 1 year during which the fiscal year 1979 funds may be obligated.

The amendment also authorizes a lower Federal percentage of Federal grant assistance throughout a State when approved by the Governor of that State.

The amendment further provides that not to exceed $20 million of construction grant funds may be utilized for the cleanup of PCB's from the bottom sediments of the Hudson River in New York. These funds may be used only to the extent that funds are not available under section 115 of the act—removal of in-place pollutants—section 311 of the act—cleanup of spills—and any hazardous substances cleanup fund which may be enacted. Also, any construction grant funds used shall be deducted from any estimates of the needs of the State of New York prepared under section 516(b) of the act.

Finally, the amendment provides that the 2 percent of the construction grant funds which may be used by the States for administration of the program is to be based on the authorized grant amount rather than the amount actually appropriated in order to insure the efficient management of this program at the State level.

Mr. Speaker, as I stated earlier the agreement incorporated in this amendment represents a sound and reasonable compromise between the Senate and House bills, and I urge its adoption.

● Mrs. HECKLER. Mr. Speaker, the elimination of the industrial cost recovery charge on local industries, section 2 of H.R. 6667, has been a primary legislative priority of mine since I first introduced legislation that would accomplish that in February 1977.

In December 1976 I met with a group of industrialists in Fall River, Mass., the largest city in my congressional district. These were businessmen who cared about unemployment problems and the problems of their workers. They were planning ahead, making economic decisions based on current costs of operation and projected operating costs and taking into account fees which had not been imposed on them yet but were in place in the law and would be charged years later.

Their findings were startling. After careful study they had concluded that the industrial cost recovery charge could be the final blow to the textile industry which was already reeling from the impact of foreign imports, high unemployment, and rising taxes. The specter of an ICR charge which would have to be paid for 30 years had already begun to affect business decisions of whether or not to continue operations in Fall River or shut down and move elsewhere where the economic climate would be more favorable.

After studying their conclusions in light of my own independent research, I introduced legislation to repeal this unfair charge. Now, 3½ years, one $500,000 consulting study by Coopers and Lybrand, and two ICR moratoriums later the charge is being repealed in the provisions of H.R. 6667.

Our distinguished colleagues HAROLD JOHNSON, the chairman of the House Public Works Committee, DON CLAUSEN, tenacious ranking member of the Subcommittee on Water Resources, and RAY ROBERTS, the chairman of the Subcommittee who called a series of hearings over the years which illustrated the inequities and administrative nightmares of the charge, are all to be congratulated.●

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2725

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Section 104(u)(1) of the Clean Water Act is amended by striking "and" after "June 30, 1975," and inserting after "September 30, 1980," the following: "not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,".

(b) Section 104(u)(2) of the Clean Water Act is amended by striking "and $3,000,000 for fiscal year 1980" and inserting in lieu thereof "$3,000,000 for fiscal year 1980, $2,524,000 for fiscal year 1981, and $2,774,000 for fiscal year 1982".

(c) Section 106(a)(2) of the Clean Water Act is amended by inserting after "1980" a comma and the following: "$48,730,000 for fiscal year 1981, and $53,500,000 for fiscal year 1982".

(d) Section 208(f)(3) of the Clean Water Act is amended by striking "and" after "1974," and inserting after "1980" a comma and the following: "not to exceed $39,000,000 for the fiscal year ending September 30, 1981, and not to exceed $42,900,000 for the fiscal year ending September 30, 1982".

(e) Section 208(j)(9) of the Clean Water Act is amended by striking "and $400,000,000 for fiscal year 1980," and inserting in lieu thereof a comma and the following: "$400,000,000 for fiscal year 1980, and $50,000,000 for fiscal year 1981;".

(f) Section 314 of the Clean Water Act is amended by striking "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $13,500,000 for fiscal year 1981, and $14,850,000 for fiscal year 1982".

(g) Section 517 of the Clean Water Act is amended by striking "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $146,433,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

SEC. 2. (a) Section 205(d) of the Clean Water Act is amended by adding the following: "The Administrator, in consultation with the State, may exempt from reallotment under this subsection such funds as the Administrator determines will be necessary to satisfy the Federally fundable portion of any project which is required by consent decree or court order entered in a Federal or State court to enforce compliance with section 301(b)(1) (B) or (C) of this Act. If the Administrator later determines that the State is not contributing to timely progress toward meeting the obligations of such consent decree or court order, the Administrator may reallot the exempted funds at any such time."

(b) Section 205(i) of the Clean Water Act is amended by adding at the end thereof the following sentence: "Notwithstanding the language of subsection (d) of this section, sums reserved under this subsection from the amount provided for the fiscal year ending September 30, 1979, shall be available for obligation until September 30, 1981.".

SEC. 3. Title I of the Clean Water Act is amended by adding the following new section:

"HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until the end of the third full fiscal year after the enactment of this section. Funds allotted to the State of New York under section 205(a) shall be available under this subsection unless funds are made available to the State of New York for the work authorized by this section under section 115 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 516(b) of this Act.".

Sec. 4. (a) Paragraph (1) of subsection (b) of section 204 of the Clean Water Act is amended by striking out clause (B) in its entirity and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Clean Water Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Clean Water Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

(d) Section 201(h) of the Clean Water Act is amended by striking out the last sentence.

(e) The second sentence of section 213(d) of the Clean Water Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204 (b)(3) of this Act, and (2)".

(f)(1) Section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

(h) Notwithstanding any other provision of this section or the Clean Water Act, a grantee shall retain all revenues derived from the payment of costs by industrial users of waste treatment service to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to title II of the Clean Water Act as determined by the Administrator, which have been collected prior to the enactment of this section, and such retained revenues shall be used for the operation and maintenance, reduction of debt, future expansion, and reconstruction of such project.

Sec. 5. Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(k) No grant made after September 30, 1980, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.".

Sec. 6. Section 311(k) of the Clean Water Act is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding the following paragraph at the end thereof:

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

Sec. 7. (a) The first sentence of section 202(a)(1) of the Clean Water Act is amended by striking the period and inserting in lieu thereof a comma and the following "unless modified to a lower percenatge rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allotted to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modifications. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal-share educated in any such State."

(b) The first sentence of section 202(a)(2) of the Clean Water Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection".

Sec. 6. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water outside the Columbia River Basin.

### AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Breaux: Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 104(u) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (1), by inserting after "September 30, 1980," the following: "and not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,";

(2) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal 1981, and $3,000,000 for fiscal year 1982"; and

(3) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".

(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by inserting after 1980 a comma and the following: "$75,000,000 per fiscal year for the fiscal years 1981 and 1982".

(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982".

(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by inserting after 1980 a comma and the following: "and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982".

(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, and $100,000,000 for fiscal year 1982".

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982".

(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

Sec. 2. (a) Paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

(d) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence.

(e) The second sentence of section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".

(f)(1) Section 75(b) of the Federal Water Pollution Control Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Federal Water Pollution Control Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

Sec. 3. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980."

Sec. 4. The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment made by section 3 on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works.

Sec. 5. Section 206(f)(1) of the Federal Water Pollution Control Act is amended—

(1) by striking out "In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act" and inserting in lieu thereof "In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this title have been obligated under section 201(g), or will be so obligated in a timely manner (as determined by the Administrator)"; and

(2) by striking out the last sentence thereof and inserting in lieu the following:

"The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year—

"(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

"(B) unless such payment is for a project which, on the basis of an approved funding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 per centum as such appropriations do provide.".

Sec. 6. Section 203(a) of the Federal Water Pollution Control Act is amended (1) by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

Sec. 7. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section sahll be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year. This section shall take effect on September 30, 1980.

SEC. 8. Section 311(k) of the Federal Water Pollution Control Act is amended—

(1) by inserting "(1)' 'after "(k)"; and

(2) by adding the following new paragraph at the end thereof:

"(2) The Secretary of Transporation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

SEC. 9. (a) The first sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State."

(b) The first sentence of section 202(a)(2) of the Federal Water Pollution Conrtol Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursued to paragraph (1) of this subsection".

SEC. 10. Title I of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring system for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway. No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until September 30, 1983. Funds allotted to the State of New York under section 205(a) shall be available under this subsection only to the extent that funds are not available, as determined by the Administrator, to the State of New York for the work authorized by this section under section 115 or 311 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 516(b) of this Act. The Administrator may not obligate or expend more than $20,000,000 to carry out this section.".

SEC. 11. The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting "of the amount authorized under section 207 of this title for purposes" after "2 per centum".

SEC. 12. The Administrator of the Environmental Protection Agency is authorized to make grants to States to undertake a demonstration program for the cleanup of State-owned abandoned mines which can be used as hazardous waste disposal sites. The State shall pay ten percent of project costs. At a minimum, the Administrator shall undertake projects under such program in the States of Ohio, Illinois, and West Virgina. There are authorized to be appropriated $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to carry out this section. Such projects shall be undertaken in accordance with all applicable laws and regulations.

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## SENATE DEBATE ON S. 2725

*June 25, 1980*
(Congressional Record, vol. 126, part 13, 16723-16735)

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### CLEAN WATER ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, this measure has been cleared on the minority side. Mr. STAFFORD and Mr. GRAVEL are prepared to manage the bill.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 794, S. 2725, Clean Water Act authorizations.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2725) to extend certain authorizations in the Clean Water Act, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill.

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### CLEAN WATER ACT AUTHORIZATIONS

The Senate continued with consideration of S. 2725.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Jackie Schafer, Hal Bragman, John Yago, Richard Harris, Sally Walker, Bailey Guard, Phil Cummings, Pamela Odum, and Karl Braithwaite, be accorded the privilege of the floor during the consideration of the pending legislation, amendments thereto and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1318

(Purpose: To correct a reference to a date in section 5)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1318.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 23, strike "April 30, 1980." and insert in lieu thereof, "May 15, 1980.".

Mr. GRAVEL. Mr. President, all this is is a technical amendment to change a date which is relevant to the consideration of this bill.

I think the minority is in agreement on it.

Mr. STAFFORD. Mr. President, speaking for the minority I am prepared to recommend acceptance of this amendment to my colleagues on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1318) was agreed to.

Mr. GRAVEL. I thank the Chair.

I thank my colleague, and I wish to go into my statement at this time.

Mr. President, the bill before us, S. 2725, provides the necessary extensions for the expiring authorities of the Clean Water Act and also makes some amendments to the wastewater treatment construction grant program.

This year marks the eighth anniversary of the 1972 Clean Water Act. We can be pleased with much of the progress we have made in those years in cleaning our Nation's lakes, rivers, and streams.

The foresight and determination of this country to make the Clean Water Act work has resulted in many tangible benefits:

Some 50 major bodies of water in this country, including the Delaware, Willamette, and Susquehanna Rivers have shown considerable improvement;

More than 3,600 of the 4,000 national industrial pollutors are meeting their cleanup deadlines; and

Many of the dangerous pesticide residues, like DDT, have begun to gradually disappear.

What we reauthorize here is a testimony to this Nation's continuing goal to correct the pollution of one of our most vital resources.

Section 1 of the bill extends the expiring authorities of the Clean Water Act for fiscal years 1981 and 1982. The fiscal year 1981 authorization level is consistent with the March 15 report of the Committee on Environment and Public Works to the Budget Committee. The levels for fiscal year 1982 reflect a 10-percent increase over the 1981 levels to provide for some protection against inflation. The committee report describes the reauthorized activities in detail.

The committee is particularly interested in the progress of the section 208 areawide wastewater treatment planning program. While one of the main purposes of this program is to address the problem of nonpoint sources of water pollution, it is not intended to have an exclusively nonpoint source focus. Areawide agencies should be allowed to use funds available under section 208 for their point source responsibilities and should receive funds under section 201 for that purpose.

Another major program area which this bill reauthorizes is the section 106 authorization for State program grants. It is under this section that States receive funds to carry out the various functions assigned to them under the Clean Water Act. These are vital activities which are necessary to the effective implementation of the Clean Water Act. Continued and stable funding of the section 106 program grants is essential if States are to be expected to carry the burden imposed on them by the act.

Section 2 of this bill extends the period of availability of waste water treatment construction grant funds by an additional year. Funds will now be available for 3 years instead of the previously allowed 2 years. At the end of the 3-year period, States which have not obligated all of their money will lose their remaining funds to those States which have used all of their money.

This extra year of availability is specifically intended to help direct funds to priority treatment projects. These projects generally are large, complicated urban waste treatment projects which require extensive review. Ordinarily, States will pass by these high priority projects and will obligate their money to lower priority projects, such as sewers, which are simple and ready to go. This practice has avoided the problem of States losing money at the end of the 2 year obligational period. However, this practice has also worked against the effort to direct dollars to the higher priority treatment needs.

Therefore, the committee fully expects that the third year of availability of funds will enable the States to now direct their money to the highest priority projects which relate directly to wastewater treatment needs.

Section 3 of this bill authorizes the use of New York State's construction grants money for the dredging of PCB's from the Hudson River. The committee authorized this specific use of New York's construction grant money on the presumption that the most pressing environmental need in New York is the contamination of the Hudson River by PCB's.

The needs estimate for New York for future waste-water treatment needs will be reduced by whatever amount is diverted to the Hudson River project so that the State will not receive any more money than it is entitled to receive. Current estimates for the Hudson River project would require funding for 3 years at approximately $10 million a year.

The committee bill limits this special diversion of New York's construction grant money to 3 years. Further, the bill specifies that New York's construction grant money can be used only if the funds from other appropriate sources are not available. Such sources would include funding under section 115 of the Clean Water Act—in-place toxic pollutants—or funds available through the proposed "superfund" legislation. Funding has never been requested by the administration for section 115; superfund legislation is currently moving through the legislative process. In the event that funding becomes available under either of these two options, New York's construction grant money would not be used for this purpose.

Section 4 of this bill repeals the requirement known as industrial cost recovery which requires that those industrial participants in municipal wastewater treatment plants which benefit from Federal construction grants must pay back the Federal subsidy of capital construction costs attributable to that industry. The committee feels that the industrial cost recovery program is overly burdensome to both the communities and the industries involved. However, the committee's continuing belief in the principle of not providing Federal subsidies for industrial waste-water treatment led to the approval of the final section of this bill which eliminates future Federal funding of industrial capacity in municipal treatment plants.

Section 5 of the bill stipulates that after September 30, 1980, no Federal construction grant money may be used for industrial capacity of greater than 50,000 gallons per day of sanitary waste in municipal waste water treatment plants. This amendment in no way precludes joint municipal-industrial treatment plants; it simply means that the Federal Government will not provide the funding for the industrial portion. In fact, many tax advantages which have been available to self-treaters may now be available to industries which participate privately in municipal systems.

This particular amendment should reduce the demand against the construction grant program by as much as $7 billion. At current levels of appropriations, such a savings is equal to 2 years of funding for this program.

The Subcommittee on Environmental Pollution, which I chair, intends to undertake an oversight review of the construction grant program this summer. Many pressing questions need to be examined in light of the failure of the grant program to keep pace with the needs facing it. Issues such as the types of waste water treatment projects which should be eligible for funding, the level of Federal funding, the Federal share, the method of distributing the funds, and the priorities for funding are examples of the types of problems facing us that need to be reviewed. The subcommittee will begin this review shortly and will address these and other issues which affect the future of the construction grant program. Meanwhile, this bill before us will maintain the necessary momentum until such a review is completed.

That concludes my opening remarks.

I yield the floor at this time.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Vermont.

Mr. STAFFORD. Mr. President, the amendments to the Clean Water Act contained in S. 2725 represent a simple extension for 2 years of several expiring authorities in our Federal water pollution control program. The authorizations for section 314 Clean Lakes, section 106 program management, section 208 areawide waste treatment, the general authorization and other provisions strictly conform to the Budget resolution for fiscal year 1981. For fiscal year 1982 we provide a small increase for each section, as an inflation adjustment.

In addition, the Committee on Environment and Public Works saw fit to include a few additional provisions which are urgently needed at this time. My colleagues should be aware that the committee is contemplating a more comprehensive review of a number of issues pending under the Clean Water Act. In particular, the committee will direct its attention in the next Congress to the construction grants program which provides municipalities with financial assistance to abate pollution to achieve the goals of the Clean Water Act. The committee has been presented with information which suggests that substantial reforms may be necessary.

Pending before the committee are such legislative proposals as Senator HATFIELD's two-tier bill and Senator CHAFEE's proposals to modify the allotment formula and to permit communities to proceed with construction of treatment works in advance of Federal appropriations. In addition, in a speech before the Association of Metropolitan Sewerage Agencies on the day before he was nominated by President Carter to become his Secretary of State, our esteemed colleague and my personal friend Senator Edmund S. Muskie, presented a comprehensive agenda for reform of the construction grants program.

Mr. President, I ask unanimous consent that the text of Senator Muskie's speech be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. The committee expects to investigate all of these recommendations for reforming the construction grants program, both in oversight hearings later this year and early in the next session of Congress. At the very least the committee must enact a statutory formula or other device for allotting appropriations to the States for fiscal year 1982. This will provide an opportunity to reevaluate other aspects of this program.

I appreciate that many of my colleagues are anxious to have amendments considered at this time. However, I would recommend that we refrain from attempting anything but the most urgently needed changes, for this reason: The bill as reported from committee contains an amendment which repeals the so-called industrial cost recovery requirement. It is important that final legislative action on this bill be completed prior to July 1 of this year. If it is not, the Environmental Protection Agency, under the mandate of existing law, must resume the collection of industrial cost recovery payments on that date. After much consideration, beginning as long ago as the 1977 amendments to the Clean Water Act, the committee has concluded that the industrial cost recovery program as conducted by the Environmental Protection Agency is unworkable and irreparable.

Our decision to recommend its repeal was unanimous but, in the judgment of this Senator, somewhat unhappily. Likewise, unanimous was our decision to require that, henceforth, Federal construction grant funds may not be used to treat industrial waste water in municipally owned treatment plants.

It is the view of the Senator from Vermont that the timely repeal of industrial cost recovery depends substantially on our approving here today as simple a bill as possible. Most other reforms in the program, while important, can be better addressed in next year's bill. I can assure my colleagues that this Senator will work with all Members to achieve a more effective and efficient construction grants program as expeditiously as practicable.

Mr. President, I yield the floor.

### EXHIBIT 1

### REMARKS OF SENATOR EDMUND S. MUSKIE

It has been 10 years since the American people expressed their concern over environmental values in that eloquent public statement we called Earth Day. The Congress has always been best at riding a wave of popular sentiment. Those of us who had patiently laid the environmental groundwork in the 1960's suddenly had some powerful new allies. They included a conservative Republican President who bowed to pressure to reorganize the Government's environmental agencies into the EPA. And they included overwhelming majorities in both Houses who enacted the Clean Air Act and Clean Water Act.

The Congress proudly told the people back home they had solved the pollution problem. And as it often does, the Congress turned to other matters. Which left those of us who deal with environmental matters every day to defend and expand the new laws. We have done a pretty good job of it. But I sometimes feel like the man in Seattle who was asked whether it ever stopped raining. "I don't know," he replied. "I've only been here three years."

The storm clouds which are casting such an ominous shadow over the clean water program this year have been kicked up by 18 percent inflation, 20 percent interest rates and the realization that the long-awaited recession has finally arrived.

I head back to the capital to begin debate today on the Senate Budget Resolution—a resolution which calls for a balanced budget. This budget is the Congressional response to the economic challenge we face. It is being considered in an atmosphere of great frugality. It will force us to accomplish social goals—including environmental goals—through less costly means.

I am not going to take time today to analyze how we got into this position. But I do want to deal with how those sobering economic realities affect all major Federal programs. And I want to suggest ways in which we can preserve the construction grant program in this volatile environment.

The economic mood of the 96th Congress is frantic, to say the least. In this election year, both Houses are intent on slashing the budget. The Congress will look skeptically at every costly domestic program.

Inflation has driven the Congress to the reality of a balanced federal budget for fiscal year 1980—and sometimes to the unreality of indiscriminate budget cutting.

In this atmosphere, the construction grant program sticks out like the turkey on a Thanksgiving Day dinner table. Everyone sees room for cuts.

The program is big. It is EPA's largest program, with billions of dollars committed to the construction of wastewater treatment systems.

But bigness has not always meant success—and a nervous Congress grows increasingly skeptical.

The Senate Budget Committee recently voted to create a reduced fiscal year 1981 budget target for the Environmental Protection Agency. This new target will freeze EPA's budget next year at the current level. The result will be less money than the Administration requested for the construction grants program—and less money than Congress contemplated in the 1977 amendments to the Clean Water Act.

Worse; the Budget Committee only narrowly defeated, by a 10–7 vote, a Hollings' amendment which would have rescinded all the construction grant program funds which had not yet been obligated. You might consider this a rash vote. The Federal Housing program was saved on a tie vote. The amendment would have ripped away money for projects that you have been planning carefully for many years;

—Money for projects that have had design work and paperwork completed and are ready for approval.

—Money that would have gone toward cleaning up America's waterways.

I can hold out no realistic hope of substantial budgetary additions later in the budget process. So we face at least three choices. The first two would involve significant departures from the present system.

First, we could take the federal government completely out of the construction grant program—lock, stock and sewer plant; or

Second, we could eliminate the present allocation formula which has given some states more than they can spend while others cannot meet actual needs. This would give the Administrator of EPA discretion to approve projects based on real needs.

Or, third, we could choose to try to fix the present system to meet the goals of the law, even in troubled economic times.

All three options have been voiced in the past and will be voiced again. I hope you will agree with me that the last option is the best.

I choose it because I still have faith in the goals of the sewage treatment program.

I have seen what can be accomplished on the Androscoggin River in my home State of Maine; along the Potomac; in our Great Lakes and Lake Washington; and along thousands of miles of rivers and shorelines around the country.

I choose to fix our present system because so much is still left to be done. The Senate tried to fix the present system in 1976 and again in 1977. But we were unable to, because time ran out; other issues forced compromises in this program; and there was too little pressure to use limited funds wisely.

There are financial pressures today in abundance. We must respond with a more realistic perception of the program's goals. Now, more than ever before, we must strive for the greatest reduction of actual pollution discharge for every dollar we invest.

We face many hurdles, however, before we can begin to implement this basic objective.

Too many people still believe that any and all present and future sewage treatment needs will be fully funded.

Too many people really believe that interceptor and collector sewers, regardless of size or purpose, will continue to be eligible projects.

Too many people are willing to accept the maldistribution of grant funds under the present allocation formula.

At the same time, there are too many people who would be willing to accept patchwork corrections to current problems primarily designed to meet the narrow needs of a few states, communities and industries.

Unless these attitudes change, the program will die. Unless the people most interested in the program—in Congress, in EPA, in the states and communities—are prepared to rise above narrow, provincial interests, federal funding will soon be a thing of the past.

In order to help guarantee a construction grant program we must concentrate on two areas:

First, we must strive to cut the costs of the program wherever we can.

Second, we must make the program more accountable to actual pollution control needs.

The costs of construction have skyrocketed in the last few years. We get a lot less construction for the dollars we spend.

Of the $20.7 billion committed by the EPA for the program, only $1.7 billion worth of facilities are built and operating.

The most recent needs survey put the cost at an additional $106 billion nationally for all the needs identified.

But more important, we will need to find new ways to gain local self-sufficiency. Doing away with the industrial cost recovery program is a step in the wrong direction.

And yet just last week, a House subcommittee voted to repeal that provision of the Clean Water Act—and a similar proposal may be raised on the Senate side.

And the House has already passed a bill which would provide an additional allotment of funding for states which have expended most of their current allotment. This bill fails to deal with the fundamental problem—the fact that the allotment formula does not distribute scarce federal funds to those states where the greatest pollution control need exists. We are faced with a situation, where up to 20 states cannot use their FY 1978 funds for priority projects just before the end of the obligation period. On the other hand, as many as 16 states are in a position to use more money. Only one conclusion can be drawn—the allotment formula does not adequately reflect pollution control needs.

The challenge is to redesign the allotment formula, not only band-aid solutions where the period of availability is extended to accommodate the faster states. The Federal budget cannot afford the luxury of this type of accommodation.

It would be foolish in a year of severe budget cutting for Congress to seriously think about repealing legislation which would replenish the Treasury by recovering subsidies, or enacting legislation which assumes that we have the luxury of business-as-usual on the water pollution program.

Let me now discuss with you some of the specific legislative concerns that will be addressed in legislative markups by the Environmental Pollution Subcommittee in the next few days. First, let's take the industrial cost recovery.

When we were writing the Clean Water Act, we knew that many industries discharged their pollution into municipal sewage systems. A federal grant program to provide waste treatment for these industries would be a subsidy to them. At the same time, industries which built their own plants would have to pay those full costs. It seemed appropriate that the federal government should ask that the subsidy be paid back over the lifetime of the facility. And in the Senate bill, all those payments would have been returned to the federal Treasury.

It was a sensible, straightforward budget-balancing concept.

A susidy returned to the federal government meant more money available to finance more facilities.

Yet this concept is under attack. Industries that have benefitted from "free" federal money do not want to pay it back.

I will oppose any measure to repeal the industrial cost recovery program—even at the risk of reporting no bill at all this year. But in order to provide some flexibility and accommodation to the objections that have been raised to this program, I would be prepared to discuss the following options:

First, in the future, the industrial share of a municipal system would not be eligible for federal funds. Industrial participation would in no way be barred, but the basis for financing that participation would change. Industry would be allowed to buy a portion of a plant and be required to provide financing for that part of the project.

Industry would own their portion of the plant, and thus be eligible for the favorable tax treatment available to other industrial pollution control activities. This option would respond to the argument that it is cheaper for industry to build its own facilities because more favorable tax advantages exist for self-treatment.

Eliminating the industrial portion of a plant from grant eligibility will release more federal funds for more waste treatment projects.

Second, for systems already finished or under construction, industry could choose to buy the portion of the plant that is now being attributed to its participation in the system. This would allow the same tax treatment as I discussed earlier for future participation in such systems.

Alternatively, a company could continue to pay the industrial cost recovery payments now required under the law, with the condition that a long-term contract be signed to guarantee the company would fulfill its obligation to repay the federal grant. In this case, it might be useful to change the basis on which industrial cost recovery payments are made. Some were suggested by witnesses at our recent hearings, but none have been fully developed.

The amounts of money we are talking about are not small. The best estimates are inadequate, but reports indicate that roughly half the construction grant money will be used for industrial capacity. Of the 30 billion dollars that have been made available for obligation, 15 billion dollars would be invoved in treating industrial waste. Thus, as much as 7.5 billion dollars would have been returned to the federal government.

Let me now turn to other aspects of the construction grant program. We can no longer afford the luxury of funding collection systems. I opposed this provision in 1972 and again in 1977 because it would divert funds from actual treatment facilities. My apprehensions have been borne out.

With limited federal funds, we simply cannot continue to subsidize new growth. The needs of our existing population must be the first priority of the waste treatment program. In order to maximize our pollution control dollars, we may even have to consider eliminating interceptor sewers and any surplus capacity from eligibility for federal funds.

And the limited funding we will experience should not only make us more aware of any unnecessary technology and hardware that is added to plants—but it will also force us to better scrutinize all excessive operation and maintenance costs.

Tailoring projects to meet reduced available funds will demand thoughtful analysis.

The Congress should examine several other options to better target pollution control within current funding limits. In addition to new collectors, we may want to eliminate other categories on the current eligibility list and reduce funding for others.

First, we may want to reduce funding to a 50% grant for all categories. And we may want to defer funding of advanced waste treatment plants unless they achieve the most pollution control per dollar invested.

Second, we should reexamine the priority system to make sure that the most important projects are actually funded. A new priority system would have at least two criteria: First, projects would have to be necessary to meet permit conditions; second, the project would have to achieve the greatest amount of water pollution discharge reduction per dollar invested.

Third, we should consider changing the allocation formula so that it is based on real needs as identified in the priority system outlined above. This new allocation formula would begin with fiscal year 1982.

These options are based on the assumption that we should try once more, to fix the present system.

But I am only willing to make that effort if there is a consensus that the present system can succeed. Without that consensus, we will be forced to accept more drastic options.

I need only remind you that last year the House Appropriations Committee received a report from its own staff recommending that no funding be included in the fiscal year 1980 appropriation for federal water pollution construction grants. And remember that last year, in the Senate Budget Committee, a Member who also serves on the Senate Environment and Public Works Committee almost succeeded in gaining approval for a one billion dollar reduction in the water pollution construction grant program.

And this occurred on top of significant cuts that had already been proposed by the Administration in its budget message. It was only after I made a personal issue of reversing this vote that the billion dollars was added back to the budget target.

The only difference this year in the budget process is that the cut proposed was not a billion dollar reduction in future appropriations—the cut proposed was elimination of all existing unobligated balances, which means a substantial rescission of appropriations that have already occurred.

The present economic emergency is taking its toll throughout our society. It is affecting virtually all federal programs, except defense.

I continue to believe that federal participation in the municipal water pollution control program is still essential. But an adequate program can only be maintained if everyone who supports it also recognizes the need to refocus the program toward more actual pollution control gains.

I urge you to carefully examine the proposals I have made today.

I ask you for any possible improvements you may suggest. The deadline for Congressional action is rapidly approaching.

The constructive changes we begin here may allow us to forgo possibly destructive changes to an important environmental law.

Thank you.

### UP AMENDMENT NO. 1319

(Purpose: To provide an exception from reallotment for court-ordered projects and for funds reserved for innovative and alternative technologies)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1319.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike lines 10 through 13 and insert in lieu thereof the following:

"SEC. 2. (a) Section 205(d) of the Clean Water Act is amended by adding the following:

"The Administrator, in consultation with the State, may exempt from reallotment under this subsection such funds as the Administrator determines will be necessary to satisfy the Federally fundable portion of any project which is required by consent decree or court order entered in a Federal or State court to enforce compliance with section 301(b)(1) (B) or (C) of this Act. If the Administrator later determines that the State is not contributing to timely progress towards meeting the obligations of such consent decree or court order, the Administrator may reallot the exempted funds at any such time."

(b) Section 205(i) of the Clean Water Act is amended by adding at the end thereof the following sentence: "Notwithstanding the language of subsection (d) of this section, sums reserved under this subsection from the amount provided for the fiscal year ending September 30, 1979, shall be available for obligation until September 30, 1981.".

Mr. GRAVEL. Mr. President, this is not a committee amendment that I am offering, but it is an amendment that has been literally cleared by every member of the committee and they support it. It is something that has been brought about as a compromise by several distinguished Senators in this body.

Section 2, as it is currently written, would allow an additional year for the obligation of construction grant funds. There are a few States, mainly New York, which will have a problem obligating their funds within the current 2-year limit. The additional year will keep those few States from losing unobligated funds to reallocate at the end of the 2-year period.

The problem with extending the obligation period by an additional year is that the overall spending rate will slow down, thereby contributing to a larger, unobligated balance. As the unobligated balance grows larger, the Appropriations Committee will reduce future spending levels. However, the size of the unobligated balance is not a fair measure of the future needs of the grant program, and a large, unobligated balance works to the detriment to the future stability of the program.

As a substitute for the extension of the period availability, this amendment would keep the obligation period at its current 2 years, but will allow the administrator to exempt from the allotments any funds necessary to satisfy the need of projects under court-ordered enforcement actions under the Clean Water Act. The administrator should exercise his discretion to exempt from reallotment funds for the project under court order necessary for backlog needs.

This authority should be used only to get base level treatment plants constructed. The committee expects that such funds will be used only for these projects.

Such an amendment would keep the overall program moving at a steady pace, while protecting from reallotment those funds needed for court ordered projects. Because such projects are typically large, complicated ones, a 2-year perid for obligated funds to them is generally not sufficient.

Such an amendment serves two useful purposes: It avoids exacerbating the obligated balance program and thereby avoids additional pressure to reduce future appropriations; and, it protects the funding of projects which are under court order enforcement actions, which would not otherwise be able to get funding within the 2-year period.

The amendment also extends the period of availability for the special set-aside of funds for innovative and alternative projects. This set-aside allows for an increase of an additional 10 percent for projects using innovative and alternative treatment technologies.

While this is only a small sum of money, less than $20 million, many States have not been able to use their set-aside because of the shortage of funds to provide the base grant amount. This amendment extends this set-aside for 1 additional year.

The committee will address the long term resolution of this funding problem when it undertakes its comprehensive review of the construction grant program.

The committee recognizes the concern expressed by Senators MAGNUSON and HATFIELD with respect to the funding shortages faced by several States, including Oregon and Washington. These States have maintained a rapid pace of obligation of their construction grant funds and have kept their applications for new projects moving quickly, as well. These States are now facing situations where many projects are approved and ready to be funded, but where sufficient funds are not available to satisfy the needs of such States.

The committee intends to address the serious problem of faster-moving States when it conducts its comprehensive review of the construction grant program. This review, which will begin this year, will culminate early next year in a new method of distributing construction grant money. The committee intends to accommodate the faster States by insuring that construction grant dollars are directed to those States where immediate pollution control need exists. The committee wants to maximize the impact of what few dollars can be made available for this program.

An additional concern which the committee shares with Senator MAGNUSON is the level of authorization for the section 314 clean lakes program. This program is a worthwhile program with a high benefit-cost ratio. The committee is interested in some increased activity level for this program. Therefore, it will consider the higher authorization figure contained in the House bill.

I yield to my colleague from Vermont.

Mr. STAFFORD. Mr. President, the Senator from Vermont has examined the amendment offered by the Senator from Alaska and listened to the discussion presented by the distinguished majority manager of the bill. For the minority, I am prepared to recommend acceptance of the amendment to our side of the aisle.

Mr. GRAVEL. I thank my colleague for his contribution and also thank Senators MAGNUSON and HATFIELD for their willingness to cooperate in the compromise which has been forged at this time.

● Mr. MAGNUSON. Mr. President, I want to thank the Senator from Alaska (Mr. GRAVEL) for all his work on this legislation.

I appreciate the fact that the committee has recognized that the current funding formula is causing problems for a number of States.

I look forward to working with the committee when it conducts its comprehensive review of the construction grant program. And I am pleased to have the assurances of the chairman of the Environmental Pollution Subcommittee that the serious funding problems facing both fast-moving and slow-moving States will be addressed when the Clean Water Act is reauthorized.

I believe that it is very important that the committee amend the funding allocation formulas to insure that the construction grant dollars are directed to the faster States that have systems that are ready to be built. Such a formula should maximize the utilization of the wastewater construction grant funds.

Mr. President, the Senator from Oregon (Mr. HATFIELD) and I recognized that the current funding system was causing serious problems for this program.

Many States, for reasons that are too numerous to detail here, have had difficulty in spending their allocation of the wastewater construction grant funds. This has created a large backlog of unobligated funds—$2 billion of fiscal year 1979 funds were unspent as of April 1980. This very large unobligated balance, combined with the general concern over Federal spending has produced appropriations that are far below the authorized amounts.

The appropriations for fiscal year 1980 is $3.4 billion, down from $4.2 billion last year, $4.5 billion the year before, and well below the $6 billion a year provided in the early 1970's.

For the next fiscal year, the administration has requested $3.7 billion, and the budget resolution calls for $3.4 billion. I know that the chairman of the Appropriations Subcommittee on HUD and independent agencies will be looking at the large unobligated balance for this program as he works on this program.

Unless things change, I am concerned that we may be facing serious delays in this important program. Delays will mean continued pollution of our rivers and streams, higher project costs due to inflation, and a loss of public confidence in this program.

Community growth in areas that depend on expanded or upgraded treatment plants will remain stagnant. Of course, when a community cannot grow it affects housing availability and price, and reduces the number of job opportunities.

This situation is especially frustrating for States like Washington and Oregon. These 2 States, along with 11 others, have been able to commit their funds to projects rapidly. Their communities have done the planning and design work, and arranged the financing for the non-Federal share of the project costs. Many of these 13 States are ready to begin construction on a large number of important water quality improvement projects.

These States have done a good, responsible job. They should be congratulated.

These States are responding to the mandate of the 1972 Federal law that made water pollution control a serious national commitment.

But failure of the Federal Government to keep up its end of the financial bargain, while leaving the performance requirements for municipalities intact, is straining the credibility of the Federal legislative commitment.

To respond to this serious problem, the Senator from Oregon (Mr. HATFIELD) and I, along with 11 other cosponsors, have introduced legislation, S. 1328, designed to improve this situation.

The legislation creates an incentive for fast-moving States, provides relief for slow-moving States, and addresses some of the administrative problems that the States are experiencing.

The legislation, known as the two-tier bill, would require the EPA to monitor State expenditures of each year's allocation. If a State had obligated 90 percent of its funds by March 31 of any fiscal year in which the States received funds, the State would qualify for money from a second-tier fund during the following fiscal year. The funding level for the second-tier would be determined by the Congress in the context of the overall funding level for this program.

The purpose of this provision is to allow States which have been able to expedite their construction to maintain a strong program even if some other States have been unable to obligate funds.

Presently, by maintaining a rigid allocation formula, the States which have been able to mount a successful program have been forced each year to wait for the slower States to catch up. This has been the case because the Congress has decided to try to bring down the large unobligated balance for this program by reducing the annual appropriations level.

So, we have a situation where the fast-moving States have projects that are ready to go, projects that will have to be built eventually to meet the water quality requirements of the Federal law, and projects that are getting more expensive every month because funding is not available.

The sponsors of the two-tier bill felt that if we gave each State an incentive to speed up their obligations, eventually all of the States might qualify for second-tier funding and we could get the wastewater construction grant program moving again.

As a recognition of the support for this approach, the Senate Appropriations Committee said in its fiscal year 1980 committee report that:

> The Committee would be prepared to look sympathetically on a supplemental appropriation which would be designed to restore full second tier funding for these states (which have succeeded in obligating their full entitlement of funds under this account).

By including this language in the committee report and declining to earmark a portion of the fiscal year appropriation for second tier, the Appropriations Committee hoped to send two messages. The first was that we saw second-tier funding as an addition to the regular funding for this program. We were also sending a message to the Senate Environment and Public Works Committee that members of the Appropriations Committee would favor passage of the two-tier bill.

A second part of the bill was designed to assist the slow-moving States. The bill would postpone reallocation of a State's unobligated funds. Under current law, after 24 months, the outstanding balance from any State is reallocated to those States that have been able to obligate all of their funds. The obligation period would be extended to 36 months in recognition of the long planning time needed for many of the larger projects.

Given the instability of funding, some States have decided that construction funds should be on hand before the design and specification phases begin for a project. Some States with larger projects have held funds for a long period. This has raised the overall unobligated balance.

A third provision of S. 1328 would provide some stability in the funding for State administration of this program. One of the many reasons for some State's difficulty in operating programs is the low and unstable funding for administration. Administration costs are calculated as a percentage of overall appropriations level. But in the last decade, funding levels have ranged from $3.4 to $9 billion. Some States have complained that it is difficult to plan staffing levels with such unstable funding. S. 1328, would link the administration cost to a percentage of the authorization level rather than the appropriation level. This change would stabilize management and staffing in the hope of keeping key personnel in the program for a period of years.

Mr. President, as I mentioned, there is a great deal of support for this kind of legislation. S. 1328 has 13 cosponsors. The Senate Appropriations Committee has indicated its support for this approach. In the House of Representatives a similar bill, sponsored by House majority leader JIM WRIGHT, of Texas, and Republican Representative JAMES CLEVELAND, of New Hampshire, passed that body in December of 1979.

Unfortunately, the Senate Environment and Public Works Committee has not taken any action on either the House-passed bill, or the legislation introduced by the Senator from Oregon and myself.

Therefore, I am pleased to receive the assurances of the chairman of the subcommittee that this important and pressing problem will be addressed when the Clean Water Act is reauthorized next year. I look forward to hearings on this matter in the near future. I hope that we will be successful in developing a program that will accommodate the faster moving States by insuring that construction grant funds are directed to those States where pollution control projects are ready for construction.●

● Mr. HATFIELD. Mr. President, I had intended to offer an amendment to the legislation currently pending before the Senate. The amendment would have authorized the separate appropriation of an add-on—or second tier—over and above the basic appropriation for waste water construction shared by the States. Such an appropriation would have allotted extra funds to States that have obligated all funds allocated to them by the Federal Government. However, for a number of reasons, one of which is a commitment by my distinguished colleague, Mr. STAFFORD, to conduct hearings on the two-tier allocation plan, I have decided not to offer the amendment.

I consider the two-tier approach crucial to the success of the grants program for construction of municipal waste water treatment facilities, a vital element in our overall water pollution control program.

For a variety of reasons which are not necessarily a reflection on the competence or commitment of any State, the rate at which Federal funds are being obligated for clean water projects is extremely uneven. Some States are having difficulty in using the funds they have, while others are in a position to obligate funds for projects promptly at a level far exceeding their allotments.

On a nationwide basis, a considerable backlog of unobligated funds has accumulated. The Appropriations Committees on both sides of Capitol Hill, rightly concerned over the backlog and the need for fiscal restraint, face this dilemma: If they appropriate the full $5 billion authorized for the program in fiscal year 1981, hundreds of millions of dollars would go out to States unable to use them. If they cut appropriations sharply across the board, as has been proposed, they will cripple the program in those very States which have performed precisely as the Congress mandated in the Clean Water Act of 1972.

Several other States now in the process of gearing up their capability to move projects more rapidly would be discouraged—indeed prevented—from doing so. The program would limp along around the $3 billion level, costs would rise with inflation's erosion of the construction dollar, confidence in the Government and in the program would be betrayed, and the goals of the act would not be met.

The two-tier approach would make it possible to get this program turned around and on track, now and for years into the future. It is a workable, practical alternative, making it possible to avoid the absurdity of excessive appropriations while reaffirming the commitment of the Congress to the cleanup of our rivers and streams.

Its concept—and I shall explain the mechanics presentlv—is simple. Assuming that the need for restraint will not evaporate, it would provide for the appropriation of the full authorized amounts for the program at least for those States which have proven themselves capable of obligating funds on a reasonably current basis.

It would authorize the separate appropriation of an add-on, or second tier, over and above the basic appropriation shared by all the States; thus no State benefitting from it would be penalizing or taking anything away from any other State. In fact, by definition a State not qualifying for the second-tier appropriation in any given year would be in that posture by virtue of its slower obligation rate, meanng that it still had allotments adequate to its current ability to commit funds. No State would lose, and no State's program would suffer.

In essence, it would provide a mechanism to gear the demand for appropriations—always within the authorized levels—to the ability of States to obligate their allotments to clean-up projects. It would restore continuity, predictability and stability to the funding mechanism, providing an incentive for States, localities, and the Environmental Protection Agency to push the program, break the bottlenecks, get rid of the backlog of funds, and get on with the job of cleaning up the Nation's waters.

If the two-tier approach had been adopted this year, here is how it would have worked: In any given year, a State which had obligated by March 31 at least 90 percent of its previous fiscal year's allotment, would be entitled to receive, in the next fiscal year, an additional appropriation sufficient to bring its total allotment up to what it would have been if the full authorized amount had been appropriated.

For example, in its first year of operation, eight States which have already obligated, as of March 31, 1979, at least 90 percent of their fiscal year 1978 allotments, would qualify for the second tier. In other words, as a measure of their rate of obligation, they have committed 90 percent of their funds 18 months, or 75 percent of the way into the 2-year period of availability of those funds for obligation.

To summarize, the two-tier approach that I have juct outlined insures ample funding for States that are conscientiously complying with the Clean Water Act of 1972. Enactment of a two-tier approach, moreover, would help avert a potential absurdity: The spectacle of our branch of the Federal Government pursuing communities which have lagged in initiating clean-up projects, while another branch—the Congress—denies funding to those which are more than ready, willing and able to proceed. I refer, of course, to the Environmental Protection Agency's intention to proceed with enforcement actions against recalcitrant communities. Failure to enact our two-tier proposal would constitute a betrayal by the Congress of the compact it has with municipalities across the country to assist them in the improvement of water quality.

Mr. President, such a betrayal can only convey one message to State and local governments: Slow down compliance with Federal law, for conscientious compliance will not be supported with ample Federal funding.●

Mr. GRAVEL. Mr. President, I move adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1319) was agreed to.

### UP AMENDMENT NO. 1320

(Purpose: To authorize a lower Federal share on a statewide basis to allow most efficient use of available State funds)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1320.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, after line 23, add the following new section:

"SEC. 6. (a) The first sentence of section

202(a)(1) of the Clean Water Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allotted to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State."

(b) The first sentence of section 202(a)(2) of the Clean Water Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 14 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection".

● Mr. MAGNUSON. Mr. President, this is a very simple amendment. It would allow the Governor of a State the discretion to reduce the Federal share for wastewater construction grant projects in a State. I have discussed this amendment with the committee, and I believe that the committee is prepared to accept it.

Mr. President, when Congress passed the Clean Water Act, we established a Federal funding formula that provided 75-percent matching grants for projects that qualified under the act. The 75-percent Federal share was fixed. The formula for the remaining 25 percent of the costs was left up to the State and local governments involved.

The Federal funding formula has worked well in the past. However, we are beginning to see that such a fixed formula may be causing problems for some of our States.

Many States have recognized the importance of cleaning up their water. They have also realized the current funding level from the Federal Government does not go very far.

Therefore, some States, like the State of Washington, have decided to raise additional funds to speed up their wastewater construction programs.

This fall, the State of Washington has a $450 million bond issue on the ballot. The money would be used to fund clean water programs.

It has come to my attention, that under existing Federal law, the State of Washington would have to set up a separate grant program for these State funds.

One program would fund projects with 75-percent Federal funds and 25-percent local funds.

The second program would fund projects with 50-percent State money and 50-percent local funds.

Clearly, running two separate programs will complicate matters enormously.

The projects would be much easier to administer if the State had the discretion to reduce the Federal share below 75 percent and run all of the projects under the same uniform funding formula.

A uniform funding formula could avoid a situation where one town was paying 50 percent of the cost of their project—under the State-local program—while a neighboring community was paying only 25 percent of their project cost, with the Federal Government paying the balance.

The amendment would allow a Governor the discretion to propose a uniform Federal percentage rate below the 75-percent level. The Administrator of EPA would have to concur with this lower rate.

Under the amendment, the EPA Administrator would be required to issue guidelines for concurrence in any such modification. The guidelines would provide for consideration of first, the unobligated balance of Federal funds allocated to the State under section 205 of the Clean Water Act, second, the need for assistance under this amendment to the act, and third, the availability of State grant assistance to replace the Federal share that has been reduced.

Mr. President, I want to make it very clear that this amendment would in no way affect a State's allocation of Federal funds under this program.

This amendment would simply give a State the discretion to spread the Federal funds over more projects, if the State so chooses.●

Mr. GRAVEL. Mr. President, this amendment is a very good amendment, motivated by Senator MAGNUSON's interest in accelerating the program within his State. The State of Washington has approved a very strong commitment by the people of Washington in bonds to go to this activity. The bonds are of such magnitude that the program is restricted by the amount of money that can be spent by the State to 25 percent because of the 75-percent Federal match.

If we can lower the match to 50 percent, as is contemplated by this amendment, the State will put up the other 50 percent, which means they will meet a greater obligation than is presently required under law, but it will permit them to accelerate their program in order to clean up the environment.

I commend the people of Washington for doing this. I commend the Senator (Mr. MAGNUSON) for initiating this particular amendment.

I think this is a very admirable thing they are doing. I ask the support of this body to permit that State to take this kind of an initiative which is in the highest order of local self-determination.

I yield to my colleague on the minority side for his comments.

Mr. STAFFORD. Mr. President, the Senator from Vermont has had the opportunity to examine the amendment in question and I am prepared to recommend to the minority that the amendment be accepted.

Mr. GRAVEL. I thank my colleague.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1320) was agreed to.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I ask unanimous consent that Senator MAGNUSON be added as a cosponsor to the last amendment, UP No. 1320, which was just agreed to, and that Senator MAGNUSON and Senator HATFIELD be added as cosponsors to the first amendment, UP No. 1319, which was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I would like to direct a question to the floor manager of the bill (Mr. STAFFORD).

Can the Senator tell me how the prohibition on funding industrial capacity contained in section 5 of the bill affects the Papillion Creek and Missouri River projects in Omaha, Nebr.?

Mr. STAFFORD. I am happy to respond to the question.

According to information provided to me by the Environmental Protection Agency, both Papillion Creek and Missouri River projects have completed their step 2 construction plans and specifications projects. Therefore, neither facility is affected by section 5 of the pending bill.

Mr. ZORINSKY. I thank the distinguished Senator from Vermont.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 1795

(Purpose: To provide that the Secretary of Transportation notify the Congress whenever the unobligated balance of the pollution fund authorized under the Clean Water Act falls below $12,000,000)

Mr. HEINZ. Mr. President, I call up my printed amendment No. 1795 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 1795.

Mr. HEINZ. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 6. Section 311(k) of the Clean Water Act is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding the following new paragraph at the end thereof:

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

Mr. HEINZ. Mr. President, the purpose of this amendment is very simple. It is to help insure that we never again find ourselves in the near-crisis situation we are now in with respect to the Federal ability to respond to hazardous waste discharges. Very simply, the situation is this: We have a fund administered by the Coast Guard, under section 311(k) of the Clean Water Act. That fund, which is authorized at the level of $35 million, is, in fact, all but depleted. When I last was able to get current information, which was as of May 8—which, I point out, is over 6 weeks ago—there was less than $1.5 million in that fund for all hazardous waste response efforts nationwide.

That, in view of the numerous problems that we are having cleaning up hazardous waste sites, responding to emergencies, protecting the public health and safety—of course, in each of these instances, consistent with the act protecting our navigable waterways from this very dangerous kind of pollution—is something we should all be concerned about.

Mr. President, I am the first to admit that, as helpful as section 311(k) has been and is, and will be in the near future, the fact is that the long-term solution to the hazardous waste cleanup problem is only going to be found in the passage of more comprehensive legislation. I refer, specifically, to superfund, S. 1480, which I know the managers of the bill have been working very hard on, Senator STAFFORD particularly. Unless and until we can enact superfund, we are going to have to be sure that the very limited Federal response capability that we have now is adequately funded.

To correct this dangerous situation, Mr. President, I am going to offer a subsequent amendment when we turn to H.R. 7542, the omnibus supplemental for fiscal 1980. When the supplemental comes before us, which I anticipate will be in the very near future—this week—I plan to offer an amendment increasing appropriations to the fund to $30 million.

The amendment of today, Mr. President, is aimed at helping insure that we do not find ourselves caught somewhat unaware with less than $4.5 million in this very important fund. The purpose of my amendment is, therefore, to help insure that, as the resources of section 311(k) are drained away by necessities, the flow of funds to ongoing cleanup efforts is not turned off.

Specifically, Mr. President, what my amendment requires is that the Secretary of Transportation notify Congress whenever the unobligated balance of the fund falls below $12 million and, at that time—and this is terribly important, Mr. President—to recommend a supplemental appropriation sufficient to restore the fund to its authorized level.

Mr. President, I know that my colleagues understand that this is, at best, a stop-gap measure. It is still a stop-gap measure, even if we succeed later on this week with the amendment to the supplemental, but I think, nonetheless, this is an important step to take and I hope my colleagues will support it.

Mr. GRAVEL. Mr. President, I am happy to accept the Senator's amendment. I am persuaded by his very eloquent statement.

Mr. HEINZ. Mr. President, I thank my friend from Alaska. I appreciate his support.

Mr. STAFFORD. Mr. President, I have examined the amendment of the Senator from Pennsylvania. As he points out, this is a stop-gap measure which will eventually be superseded by the enactment of S. 1480, which creates a superfund for the cleanup, containment, and compensation of victims of hazardous wastes, discharges, and spills.

Mr. President, I am prepared to recommend to my colleagues in the minority that we accept this amendment.

Mr. HEINZ. Mr. President, I thank my good friend from Vermont for his support of the amendment. I am prepared to vote on the amendment.

Mr. GRAVEL. Mr. President, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1795) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 1917

(Purpose: To prohibit the Environmental Protection Agency from conducting any study regarding interbasin transfer of water)

Mr. McCLURE. Mr. President, I call up my amendment No. 1917 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1917.

Mr. McCLURE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 2725 is amended by adding at the end thereof the following new section:

"SEC. 6. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water from the Columbia River Basin to the Southwestern United States.".

Mr. McCLURE. Mr. President, it is my intention to modify the amendment and, for that reason, ask the attention of the managers of the bill.

The wording would be changed in this manner: On line 4 of the amendment strike the word "from" and insert "outside," and in line 5, following the word "Basin," put a period and strike the remainder of the sentence. So that, rather than reading "transfer of water from the Columbia River Basin to the Southwestern United States.", it would read "transfer of water outside the Columbia River Basin."

Mr. President, I suggest that it might be well at this time to state that the amendment is so modified.

The PRESIDING OFFICER. The Senator has that right and the amendment is so modified.

The amendment, as modified, is as follows:

S. 2725 is amended by adding at the end thereof the following new section:

"Sec. 6. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water outside the Columbia River Basin.

Mr. McCLURE. Mr. President, this amendment is offered by myself and has the support of a number of others, who are not listed as cosponsors but who have given their support, to complete the Government planning-study cycle with respect to the prohibitions that are in existing law with respect to the interbasin transfer of water from the Columbia Basin outside the basin.

It does not inject anything new, except that it deals with the question of what the Environmental Protection Agency will do, which is another agency of Government not necessarily covered by the specific language of the other prohibitions that deal with other study provisions under the Federal agencies.

This merely says that the Environmental Protection Agency is prohibited from conducting or participating in any study such as those already prohibited.

Mr. GRAVEL. Mr. President, I, generically, have problems with any legislation that would say we cannot study something.

For that reason, I would not be inclined to vote for this amendment.

Mr. McCLURE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1917) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. I thank the managers of the bill.

Mr. ROBERT C. BYRD. Mr. President, S. 2725 reauthorizes seven sections of the Federal Water Pollution Control Act of 1972, known as the "Clean Water Act," for fiscal years 1981 and 1982. One important activity reauthorized in this bill is the rural clean water program (section 208). This program encourages the Department of Agriculture, acting through the Soil Conservation Service, to coordinate with the Environmental Protection Agency in providing technical assistance on water management practices to rural landowners.

A major focus of the rural clean water program is containment of runoff from agricultural lands. Control technology for this type of water pollution is not well developed, and further progress in that direction should be pursued under this portion of the Clean Water Act.

Another section of the law which this bill reauthorizes is section 106, the national pollutant discharge elimination system. This program has added a significant regulatory burden to coal producers in the Appalachian region, including West Virginia. The new discharge elimination standards promulgated under this and other sections of the Clean Water Act have been long delayed, and regulatory action under this section has slowed accordingly. The result has been a lack of expeditious action on applications for mining activities.

While these regulations are designed to protect the water which must be used by people downstream from a mine, they do little good if they are used to totally prevent mining activity, to the detriment of the State and national economy. I urge the Environmental Protection Agency to take note of the substantial delays associated with this program, and act to reduce them.

I support Clean Water Act programs in general. I thank the able floor manager, Mr. GRAVEL, and his counterpart on the Republican side, Mr. STAFFORD for their leadership on this issue.

● Mr. CHAFEE. Mr. President, the bill we are now considering, S. 2725, as reported by the Environment and Public Works Committee reauthorizes seven important sections of the Clean Water Act—our most important tool in cleaning up the Nation's waterways.

It also extends from 2 to 3 years the period during which States must obligate their funds for construction of wastewater treatment facilities. Under existing law, States have 2 years in which to obligate funds for treatment projects. If the funds are not obligated within the 2-year period, the State will lose them. Past experience has shown that States will obligate their money to lesser priority projects where little pollution control is achieved rather than forfeit funds at the end of the current 2-year period of availability. This tends to defeat the purposes of the Clean Water Act because projects which will do the most to clean up water pollution are not being built. By extending the allotment period an extra year, States will have additional time to assure that funding will go to high-priority projects.

Another key provision of S. 2725, one which I sponsored during our Committee's consideration of the bill, repeals the "industrial cost recovery requirement". ICR, which was enacted in 1972, requires industrial users of a municipal sewage plant pay for that portion of the Federal share of the plant's construction costs which is attributable to the treatment of industrial wastes. The administrative burden of the provision falls on the towns and cities who must collect these charges and on the Environmental Protection Agency who must monitor each treatment plant for a 30-year period.

Because of the unpopularity of the ICR provision, Congress, in 1977, mandated an 18-month moratorium on ICR and a 12-month study on its effects. That moratorium was extended in December of 1979 through June 30, 1980.

Unless this legislation is passed promtply, ICR will go back into effect and probably wreak havoc among many of our cities, towns and industries.

The EPA study, in 1979 which surveyed 227 sanitary districts and 394 industrial plants, including facilities in Woonsocket, R.I., where the textile industry has been heavily burdened by ICR, concluded that ICR failed to accomplish the purposes for which it was enacted. These purposes have been summarized as parity, water conservation, appropriate capacity and self-sufficiency. Here's why ICR falls short of its goals.

Parity was an important consideration when ICR was enacted. Because industries were hooking into a municipal treatment plant, many people thought they were getting a free ride. Yet, EPA found that it is often less expensive for an industry to build its own treatment facility than to dispose of its wastes into a municipal plant. Part of this is due to the fact that industry must pay operation and maintenance charges, local debt service and changes in local tax structures favor self-treatment. Industry, like residential users, also pay taxes. Thus EPA concluded that the construction grant program does not provide a subsidy to industrial users.

ICR has had little effect on water conservation when compared to the success achieved through proportionate user charges. The industrial plants surveyed by EPA reported an average reduction in water use by 29 percent, but they pointed to user charges and water rates as the impetus. ICR is not credited with encouraging water conservation.

Precaution against overly excessive treatment plant capacity was still another reason given for ICR. A plant should be built to serve existing domestic, commercial and industrial needs with a sufficient capacity for projected growth in these three areas. EPA however, found that ICR does not effect decisions on siting of plants or deter construction of excess capacity.

With respect to the self-sufficiency of municipalities in providing for their own sewage treatment needs, EPA reported that the amount able to be retained by the grantees will not make a significant contribution toward their financial capability to meet the costs of future expansion and upgrading of their treatment works. This is especially true since inflation eats up the portion retained by the grantee.

When ICR was enacted, potential dollar recovery was expected to be $4.5 to $7 billion. But now, based on assumed eventual grants, EPA has said that the total ICR revenues may amount to considerably less, $1 to $2 billion over 30 years. By the time 50 percent is given back to the Treasury and administrative costs are covered by the grantee-retained portion, there is little on which to base local government wastewater treatment self-sufficiency. Although EPA Assistant Administrator Beck now says, in 1980, that the earlier revenue estimates of $1–2 billion were low, he admits that some of his staff may disagree with him.

Mr. President, I would argue that an industrial cost recovery charge is indeed a factor when an industry decides whether to expand or locate a new plant in a particular area. So we are sometimes talking about a loss of potential in a community if that community must assess an ICR charge because of construction grant expenditures after 1973. Further, although an industry or business may not identify ICR as the sole reason for a shutdown or move, I would submit that ICR is one of a combination of things that can drag down a marginal business.

Our Environment and Public Works Committee, particularly the Environmental Pollution Subcommittee, of which I am a member, held hearings on ICR last March. During the hearings we heard from representatives of EPA, local officials, industries, and other groups. Members of the metropolitan sewage agencies testified strongly in favor of an ICR repeal. Textile manufacturers, food processors, brewers, and the pulp and paper industries also supported repeal. Although EPA said it did not favor a total repeal, it recognized that ICR had many flaws and offered suggestions such as exemptions where administrative costs exceed receipts or in certain other hardship cases.

I, however, do not believe that ICR regulations can be repaired to effectively accomplish Congress original intent.

The stream of revenues returned by ICR over the 30-year period without interest will not be adequate to finance additional treatment needs because of the impact of inflation on both construction costs and the present value of the recovered funds. Permitting case-by-case exemptions will create new uncertainty for industrial users over the costs of participation in municipal systems.

None of EPA's recommendations, even making the Federal financing of industrial costs optional, will eliminate the enormous administrative and managerial burden ICR imposes on both grantees and the agency itself. By its very nature, the complex regulatory and financial scheme, with its major demands on scarce personnel resources, cannot succeed. By its terms, ICR maintains a Federal presence in local waste treatment management for up to 30 years.

Mr. President, given the track record of ICR over the past several years it is overwhelmingly evident that it cannot and will not work. I urge my colleagues to pass this bill quickly so ICR can be repealed before the moratorium expires on June 30.●

Mr. MATHIAS. Mr. President, I wonder if I might make an inquiry of my distinguished colleague from Vermont. Mr. Stafford, under the provisions of section 5 of the Clean Water Act extensions, would the Environmental Protection Agency have the option of establishing the non-Federal share of the construction cost of a publicly owned treatment works based upon the incremental cost rather than the proportional cost represented by the industrial user's demands upon the facility?

Mr. STAFFORD. Mr. President, I would be very pleased to respond to the question of the Senator from Maryland, my longtime, very good friend, Senator Mathias.

In reply let me say, the Environmental Protection Agency is expected to develop regulations which will establish the non-Federal costs of a treatment works under section 5. This Senator expects the Agency will carefully evaluate the actual costs of treating industrial wastewater in such treatment works, in developing these regulations.

Mr. MATHIAS. I thank the distinguished Senator from Vermont.

Mr. RANDOLPH. Mr. President, few things have given me more of a sense of accomplishment during my years in this body than the progress that has been achieved in recent times in the field of water pollution control.

Because those gains have come about through legislation conceived and developed by the Environment and Public Works Committee, they give me a special sense of pride and satisfaction.

For the reason, I am gratified by the action we have taken today in adoption of S. 2725 to extend the authorization of the clean water program.

In so doing, we have insured its operation and further improvement along the lines established under the Clean Water Act of 1977—one which as you know set some major new goals and established new directions for the pollution control effort.

Among those new directions, as you so well know, was the emphasis it placed on development of new and less costly methods for sewage treatment as alternatives for conventional systems, particularly in sparsely settled areas where requirements are modest and resources limited.

At the same time, it made further provision for wastewater treatment facilities construction grants with updated requirements to address current conditions. It also tightened requirements for control of toxic pollutant discharges, calling for their complete elimination by 1984 and sooner if possible.

These and related program provisions have, as you so well know, already returned significant dividends in the form of cleaner lakes and rivers, improved municipal sanitation and public health and a more ample and dependable supply of pottable water for burgeoning demands of cities and industries.

The bill emerging from our debate today makes possible continued attention to the program priorities which have produced those results.

The unanimous 93 to 0 vote for its approval attests in a dramatic way to your recognition of the importance of those objectives and the necessity for further action to attain them.

Such concerted support, I suggest, is the best insurance that the pace toward those goals will not lag.

Mr. GRAVEL. Third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. STAFFORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that if present and voting, the Senator from Illinois (Mr. Stevenson) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield), the Senator from South Dakota (Mr. Pressler), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

I further announce that, if present and voting, the Senator from Texas (Mr. Tower) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—93

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—7

Goldwater
Hart
Hatfield
Kennedy
Pressler
Stevenson
Tower

So the bill (S. 2725), as amended, was passed, as follows:

S. 2725

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Section 104(u)(1) of the Clear Water Act is amended by striking "and" after "June 30, 1975," and inserting after "September 30, 1980," the following "not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,".

(b) Section 104(u)(2) of the Clean Water Act is amended by striking "and $3,000,000 for fiscal year 1980" and inserting in lieu thereof "$3,000,000 for fiscal year 1980, $2,524,000 for fiscal year 1981, and $2,774,000 for fiscal year 1982".

(c) Section 106(a)(2) of the Clean Water Act is amended by inserting after "1980" a comma and the following: "$48,730,000 for fiscal year 1981, and $53,500,000 for fiscal year 1982".

(d) Section 208(f)(3) of the Clean Water Act is amended by striking "and" after "1974," and inserting after "1980" a comma and the following: "not to exceed $39,000,000 for the fiscal year ending September 30, 1981, and not to exceed $42,900,000 for the fiscal year ending September 30, 1982".

(e) Section 208(j)(9) of the Clean Water Act is amended by striking "and $400,000,000 for fiscal year 1980," and inserting in lieu thereof a comma and the following: "$400,000,000 for fiscal year 1980, and $50,000,000 for fiscal year 1981,".

(f) Section 314 of the Clean Water act is amended by striking "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof $60,000,000 for fiscal year 1980, $13,500,000 for fiscal year 1981, and $14,850,000 for fiscal year 1982".

(g) Section 517 of the Clean Water Act is amended by striking "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $146,433,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

SEC. 2. (a) Section 205(d) of the Clean Water Act is amended by adding the following: "The Administrator, in consultation with the State, may exempt from reallotment under this subsection such funds as the Administrator determines will be necessary to satisfy the Federally fundable portion of any project which is required by consent decree or court order entered in a Federal or State court to enforce compliance with section 301(b)(1)(B) or (C) of this Act. If the Administrator later determines that the State is not contributing to timely progress towards meeting the obligations of such consent decree or court order, the Administrator may reallot the exempted funds at any such time."

(b) Section 205(i) of the Clean Water Act is amended by adding at the end thereof the following sentence: "Notwithstanding the language of subsection (d) of this section, sums reserved under this subsection from the amount provided for the fiscal year ending September 30, 1979, shall be available for obligation until September 30, 1981.".

"HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until the end of the third full fiscal year after the enactment of this section. Funds allotted to the State of New York under section 205(a) shall be available under this subsection unless funds are made available to the State of New York for the work authorized by this section under section 115 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 516(b) of this Act.".

SEC. 4. (a) Paragraph (1) of subsection (b) of section 204 of the Clean Water Act is amended by striking out clause (B) in its entirety and strikin gout "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Clean Water Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Clean Water Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

(d) Section 201(h) of the Clean Water Act is amended by striking out the last sentence.

(e) The second sentence of section 213(d) of the Clean Water Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204 (b)(3) of this Act, and (2)".

(f)(1) Section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

(h) Notwithstanding any other provision of this section or the Clean Water Act, a grantee shall retain all revenues derived from the payment of costs by industrial users of waste treatment service to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to title II of the Clean Water Act as determined by the Administrator, which have been collected prior to the enactment of this section, and such retained revenues shall be used for the operation and maintenance, reduction of debt, future expansion, and reconstruction of such project.

Sec. 5. Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(k) No grant made after September 30, 1980, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.".

Sec. 6. Section 311(k) of the Clean Water Act is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding the following new paragraph at the end thereof:

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

Sec. 7. (a) The first sentence of section 202 (a)(1) of the Clean Water Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State."

(b) The first sentence of section 202(a)(2) of the Clean Water Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursued to paragraph (1) of this subsection".

Sec. 8. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water outside the Columbia River Basin.".

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Calendar No. 794**

96TH CONGRESS } SENATE { REPORT
2d Session } { No. 96–744

# CLEAN WATER ACT EXTENSIONS

MAY 15 (legislative day, JANUARY 3), 1980.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Environment and Public Works, submitted the following

# REPORT

[To accompany S. 2725]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works reports an original bill (S. 2725), to extend certain authorizations in the Clean Water Act, and for other purposes and recommends that the bill do pass.

## GENERAL STATEMENT

The Committee on Environment and Public Works has approved legislation amending the Clean Water Act to accomplish five objectives: reauthorization of certain expiring sections, extension of the period of availability of construction grant funds, authorization of the use of construction grant money for the Hudson River PCB Reclamation Demonstration Project, repeal of the industrial cost recovery provision, and elimination of future Federal funding of industrial capacity in municipal waste treatment systems.

## SECTION-BY-SECTION ANALYSIS

*Reauthorization.*—Section 1 of this bill extends the authorizations of the expiring sections of the Clean Water Act for Fiscal years 1981 and 1982 at the following levels:

[In millions of dollars]

| | Fiscal year— | |
|---|---|---|
| | 1981 | 1982 |
| Section 104(u)(1): Investigations and information | 20.697 | 22.770 |
| (Great Lakes) | .......... | |
| (Chesapeake Bay) | .......... | |
| (Water quality monitoring) | .......... | |
| (Manpower planning and training) | .......... | |
| Section 104(u)(2): Operator training | 2.524 | 2.774 |
| Section 106: State program grants | 48.730 | 53.500 |
| Section 208: Areawide waste treatment management | 39.000 | 42.900 |
| Section 314: Clean Lakes | 13.500 | 14.850 |
| Section 517: General authorization | 146.433 | 161.000 |
| Section 208: Rural clean water | 50.000 | .......... |

The sections that have been reauthorized reflect the following activities:

Section 104: *Research, Investigations, Training, and Information.*

(a) The water quality monitoring and analysis program primarily seeks to manage toxic pollutants and provide pollutant control strategies. It includes toxic pollutant data collection, analysis and guidance for State water quality monitoring programs.

(b) The Great Lakes Program works to assure that State water quality standards and management plans support the objectives of the international Great Lakes, toxic and airborne pollution problems.

(c) The Chesapeake Bay Program continues to develop research material to assess the pollution loading capacity to the system and will propose control alternatives to achieve effective management of the Bay.

(d) The manpower training program will seek a greater emphasis on programs to assist State assumption of the construction grant management responsibilities.

Section 106(a)(2): *Grants for Pollution Control Programs.*

Section 106 provides funds to States to carry out and administer a wide variety of pollution control activities under the Clean Water Act. These activities include supplementing section 402 permit activities under the National Pollutant Discharge Elimination System; municipal operations, maintenance and training programs, and certain individual State activities. Some section 106 funds have been redirected away from construction grant management activities funded under section 205(g) and toward toxic identification programs and best available technology requirements.

Section 208 (f) and (j): *Areawide Waste Treatment Management.*

Section 208 provides States and areawide agencies with a program to address both point and non-point source controls. New emphasis within the Environmental Protection Agency stresses development of non-point source control strategies. Evidence has shown that non-point pollution contributes a major share of serious lake and stream problems, including toxic problems.

Designated areawide agencies have important responsibilities for the management of point sources of pollution. Some of these are specified in section 208(b)(2)(A) through (E). The section 208 program is not intended to have exclusively a non-point source focus. Areawide agencies should be allowed to use funds available under section 208 for their point source responsibilities, and should receive funds under section 201 for that purpose.

Section 208(f) provides grants to any designated agency to develop and operate a continuing areawide waste treatment management planning process.

Section 208(j), commonly known as the Rural Clean Water program, authorizes the Secretary of Agriculture, in cooperation with the Environmental Protection Agency, to provide technical and financial assistance to land owners and operators in rural areas for implementing areawide management plans under section 208, and to install and maintain best management practices on rural land to control non-point source pollution.

Section 314(c): *Clean Lakes.*

This section authorizes a program to restore and protect the Nation's estimated 38,000 publicly owned freshwater lakes.

Financial assistance is provided to states to carry out methods, approved by the EPA Administrator, to control sources of lake pollution.

The thrust of the program has shifted away from demonstration of cleanup technologies to actual lake restoration. EPA predicts 30–35 projects may be approved for funding during the next year.

Section 517: *General Authorizations.*

This section includes all of the personnel, administrative and contractual support programs for the Clean Water Act not specifically authorized under the Act. Programs covered include the effluent standards and guideline program, the NPDES permit and enforcement program, management of state program grants and construction grant program.

*Reallotment.*—Section 2 of the bill extends by one year the period of availability of wastewater treatment construction grant funds.

The Clean Water Act currently allocates money among the States for the construction of municipal wastewater treatment systems. Those funds are made available for a two-year period. At the end of that two-year period, any funds not used by a State are reallotted among the States that have expended all of their funds.

The bill extends this two-year period by an additional year. States will now have three years in which to obligate money. This change becomes a permanent feature of the law.

Without this extension of the reallotment date, EPA projects that as many as eight States could lose up to $500 million of fiscal year 1979 funds on October 1, 1980:

| | *Million* |
|---|---|
| New Jersey | $71.5 |
| New York | 150.0 |
| Delaware | 2.9 |

| | |
|---|---|
| Maryland | 11.3 |
| District of Columbia | 15.8 |
| Indiana | 75.2 |
| Ohio | 167.0 |
| North Dakota | .8 |
| Total | 494.5 |

However, past experience has shown that States will obligate their money to lesser priority projects (where little pollution control is achieved) rather than forfeit funds at the end of the two-year period of availability. Such projects are often not complicated, can be processed quickly, and can therefore use up a State's allotment share.

For example, last year EPA originally anticipated that up to $1 billion in fiscal year 1978 funds would be lost by over 20 States on October 1, 1979. However, as a result of the practice mentioned above, only $39 million was lost, by only one state (Ohio), to reallotment. The obligation of money to lower priority projects concerns the Committee, and the extension of the reallotment date is intended to put the States on notice that the Committee intends the additional year to be used to assure that funding goes to high priority projects. The same practices that have occurred at the end of the two-year period should not occur now at the end of the three-year period.

High priority projects, particularly in large industrial states, tend to be the large expensive projects serving major urban areas. The extension of the reallotment deadline to a three-year period should be helpful to those States in assuring that funding is directed to these major projects. This is the Committee's intention, and the Administrator, States, and municipalities are all expected to recognize and implement this intent.

*PCB's in the Hudson River.*—Section 3 of the bill authorizes the Administrator to approve use of construction grant funds allotted to the State of New York for a demonstration project to dredge "hot spots" in the Hudson River where discharges of PCB's have accumulated.

Polychlorinated biphenyls (PCBs) are highly toxic industrial chemicals. The Congress recognized the severe hazard posed to public health and the environment by this chemical in 1976 when it enacted the Toxic Substance Control Act which specifically prohibits further manufacturing, processing, and distribution of PCBs in interstate commerce.

However, between 1929 and 1977, PCBs were manufactured in the United States for a wide variety of uses, especially as a heat transfer fluid and insulator in heavy electrical equipment. They were also commonly found in adhesives, plastics, paints and other surface coatings, and even in carbonless carbon paper. Among the reasons for PCB's popularity is its exceptional resistance to chemical and biological breakdown and its stability over a wide range of temperatures.

These very same properties, however, have been found to create a significant biological hazard. Once introduced into the environment, PCBs are persistent. They accumulate rapidly in living creatures but are only slowly, if ever, broken down.

More specifically, PCBs are known to cause or contribute to birth defects, miscarriages and stillbirths, skin lesions, pigmentation of skin and nails, and eye malfunctions. The toxic effects of PCBs have been distributed over a wide range of organisms from the one-celled foundations of the food chain to mammals and humans.

### PCBS AND THE HUDSON RIVER

PCBs were initially recognized as a problem in the Hudson River in 1975. At that time, analyzed samples of fish taken from the River by the U.S. EPA and the Fish and Wildlife Service fouind that PCB concentrations were higher than permissible FDA limits. Acting upon this information and additional evidence compiled by the State, the New York State Department of Environmental Conservation (DEC) charged the General Electric Company (GE) with polluting the River with PCBs. The alleged source of the contamination was GE's capacitor manufacturing plants at Ft. Edwards and Hudson Falls along the upper Hudson River. Administrative proceedings were commenced on September 8, 1975.

The hearing officer found that DEC has presented overwhelming evidence of GE's responsibility for the PCB contamination of fish, organisms, sediments, and water of the upper River. He also found that Federal and state agencies had failed in their regulatory responsibilities. These findings were issued on February 9, 1976.

Shortly afterwards, a second round of administrative hearings were held to determine the appropriate remedial measures. As a result of these hearings, GE and the DEC entered into a settlement agreement applicable to all parties. This agreement was signed on September 8, 1976.

### PCB SETTLEMENT

Pursuant to the settlement agreement, GE was required to reduce immediately its discharge of PCBs, which had been averaging 30 pounds per day, to one pound per day, and to construct a wastewater treatment facility at the Ft. Edwards and Hudson Falls capacitor manufacturing plants. Total PCB discharges were reduced to one gram (0.022 pounds) per day by May 1977 and were essentially eliminated in July 1977.

The settlement also stipulated that GE would spend $1 million on PCB-related research. In addition, both GE and the DEC were required to contribute $3 million each to a special fund to monitor the presence and levels of PCBs in the River, to investigate further the need for remedial action, and to implement remedial action, including a program to regulate the storage and disposal of environmentally hazardous substances. Responsibility for administering the fund and for overseeing and expediting studies was vested in the DEC.

Finally, an advisory committee, composed of independent experts and government and private interests, was found to "review and make public recommendations to the Commissioner (of DEC) concerning the scope, content, progress, and results of the programs, studies, and expenditures".

## PCB RECLAMATION PROJECT

Utilizing the funds made available under the settlement, DEC has conducted massive and detailed studies of the PCB contamination problem in the Hudson.

These studies have documented some 630,000 pounds of PCB contamination in the bottom sediments of the Hudson River, stretching 190-miles from Ft. Edwards to New York City. More than 5,000 pounds of PCBs annually are being carried in river flow from the upper Hudson to the lower River estuary. Once the PCBs reached the estuary, recovery becomes impossible.

These studies have also pinpointed 40 riverbed sediment areas which contain more than 50 parts per million (ppm) of PCBs. While these 40 "hot spots" constitute only 8 percent of the total upper riverbed they hold 40 percent of the total PCB contamination in the upper Hudson.

DEC and the Advisory Committee explored a number of alternative cleanup strategies. However, for contaminants located in a water way, the only demonstrated, effective technology for removal on a large scale is dredging. Consequently, in June 1978, DEC, with the advice and approval of the Advisory Committee, proposed a project of dredging these "hot spots" and excavating the contaminated bank deposits. This would remove 70 percent of the PCBs in the upper River between Hudson Falls and Troy.

An essential element of the proposed reclamation project is the isolation of these contaminated dredge spoils from the environment after removal from the River. Studies indicate that while it may soon be possible to destroy PCBs by incineration or bacterial digestion, no technology for PCB destruction is currently in full scale operation. Containment of these PCB-laden materials will therefore be necessary for some years. DEC has proposed that the contaminated sediments be contained in a 100-acre secure landfill located near the hot spot area. Several probable candidate sites have been identified. Some tests have been conducted. What is envisioned is a clay encapsulation, which would be closely monitored. The candidates sites are located in Washington County. DEC has been working with local officials.

The PCB Reclamation Project thus consists of four elements:

Dredging of the 40 "hot spot" areas in the 30 mile portion of the river south of Ft. Edward

Transport of the contaminated sediment to a secure land burial facility

Clay encapsulation of the material at the containment site, with intensive monitoring and treatment of any runoff or leachate

Monitoring and maintenance of the encapsulation site until a viable, cost-effective method for ultimate PCB destruction is developed

The Committee is especially concerned that the handling and storage of the contaminated dredge spoil be carefully monitored to assure that further environmental damage does not result from the River clean-up actions.

Section 115 of the Clean Water Act authorizes a program for the removal of inplace toxicants such as the PCB contamination of the Hudson River. But section 115 has never been funded. The Administration has never sent a budget to the Congress that contained a request for funds in this area, and it is unlikely that any budget in the next few years will contain such a request.

Legislation creating a fund for the cleanup of releases of hazardous substances including hazardous waste sites and contamination incidents such as the PCB's in the Hudson River is being considered by the Congress. This legislation will hopefully be enacted in this Congress. If that should occur, then that funding mechanism would take priority over the use of section 201 funds.

But since the problem is such a high priority problem for the State of New York and because delays have occurred in funding any removal project, the Committee determined that the best environmental protection would be achieved if immediate authorization to use section 201 funding were granted.

The bill reported from the Committee deals with some of the objections that might be raised to using section 201 funding.

One problem is the relationship between this provision and the allocation formula and the role of needs estimates in that formula. With no further action, the effect of this provision would have been to authorize a sizeable new project for the State of New York, but not reduce that State's need estimates by the same figure, since the PCB removal project is not contained in the needs survey in the State of New York.

In order to alleviate this imbalance, the provision requires that the State's estimate of needs be reduced by the amount of this project. By doing so, the Committee has protected all other States from having any of their funds diverted to the New York PCB removal project.

*Industrial Cost Recovery.*—Section 4 repeals "industrial cost recovery" (ICR) as a condition of a Federal grant award for the construction of a publicly owned treatment works. Under the 1972 Clean Water Act amendments authorizing EPA to make grants to municipalities for 75 percent of the eligible costs of construction of publicly owned treatment works, a grant recipient is required to develop a system to recover the industrial users' share of Federal costs over a period of no more than 30 years. Half of the recovered revenues are to be returned to the U.S. Treasury and half retained by the grantee for the future expansion and reconstruction of the treatment facility or to administer the program.

Thus, section 4 repeals those provisions of the Federal Water Pollution Control Act which require or make reference to the repayment by industrial users of that portion of a construction grant allocable to the treatment of industrial wastewater. Further, this amendment removes industrial cost recovery as a condition of any grant made since March 1, 1973, the effective date of the original ICR requirement. However, any revenues collected prior to repeal of ICR which were retained by a grantee must be used for operation and maintenance, debt reduction, future expansion or reconstruction of the treatment works.

Since December 27, 1977, a moratorium on the payment of industrial cost recovery has been in effect, pending the completion of studies and receipt of legislative recommendations from the Environmental Protection Agency. In the absence of affirmative action by the Congress, ICR payments must resume after the current moratorium expires on June 30, 1980.

The Committee unanimously recommends repeal of the industrial cost recovery requirement in response to the overwhelming evidence presented in three days of testimony that ICR has not accomplished the purposes for which it was originally intended.

Subsequently, the Committee adopted a separate amendment relating to the future eligibility for grant assistance to treat industrial wastewater in publicly owned treatment works. This amendment is discussed in section 5 below.

## BACKGROUND

To help municipalities meet the goals of the Federal Water Pollution Control Act of 1972, the Congress established a multibillion dollar program to provide 75 percent Federal grants for constructing or upgrading sewage treatment systems. Since then, $31.58 billion has been appropriated for this purpose.

The Congress required the recovery of industrial waste-treatment costs in the 1972 Amendments in the belief that the program would otherwise provide a substantial Federal subsidy of the cost of treating industrial water pollution. It was estimated at the time that one-half of the total treatment works costs would be attributable to industry flows. For years, joint industrial/municipal treatment had been encouraged because of such benefits to communities as economies of scale, simplified enforcement by reducing the number of outfalls, and greater efficiency in the biological treatment process.

Joint treatment likewise benefitted industries which lacked adequate space to locate private water pollution treatment structures, or wished to avoid the administrative and legal responsibilities associated with financing, constructing and operating their own. The Congress was concerned with industries situated to take advantage of such heavily subsidized municipal wastewater treatment works would enjoy benefits not available to other firms required to meet strict effluent limitations established elsewhere in the 1972 Act.

Thus, industrial cost recovery was an attempt at assuring that the Federal Government would not subsidize capital construction costs for industrial wastewater treatment through the water pollution control program. The following samples from the legislative history illustrate the prevailing congressional sentiment at that time:

*From the Senate Report.*—"The Committee believes that this approach [ICR] to the issue to industrial use of public facilities appeared . . . to be the most reasonable and equitable one that can be devised. Any scheme that did not provide for full recovery of the Federal share of capital costs allocable to industrial users would clearly constitute a Federal subsidy of private industry . . ."

*From the House Report.*—"It is the Committee's view that it is inappropriate in a large Federal grant program providing a high percentage of construction funds to subsidize industrial users from funds provided by the taxpayers at large."

As planning for treatment works reached more advanced stages and communities were required to develop systems to collect ICR, the complexities of administering such regulations received increased attention.

An independent General Accounting Office review of EPA efforts to implement the ICR provisions, completed in April 1978, revealed large disparities in grantees' determination of which industries and which type of industrial discharges were subject to ICR which was attributable to poor guidance from EPA. GAO also found that the EPA had approved local schemes which did not recover the costs of developing and administering these systems. This helped to substantiate the charge that the costs incurred by the grantees to administer ICR exceeded the revenues recovered from industrial users. Amendments to ICR adopted in the 1977 Act to exclude small users with flows under 25,000 gallons per day were intended to minimize such administrative problems.

In these amendments to the Clean Water Act enacted on December 27, 1977, the Congress also imposed an 18 month moratorium on ICR payments and directed the Environmental Protection Agency to conduct a study on the efficiency of and need for the ICR program. The moratorium has been extended once and expires June 30, 1980.

The Environmental Protection Agency transmitted two reports to the Congress during this period. The first, dated January 25, 1979, was prepared by a contractor, Coopers & Lybrand. That report reached only one conclusion: "The Industrial Cost Recovery provisions of P.L. 92-500 have not accomplished their legislative purposes." The contractor acknowledged that its work suffered from insufficinet data:

> It should be realized that the ICR Study mandated by Congress took place early in the ICR program, and that there is only a limited quantity of actual data. For that reason, the study team examined the intent of ICR, and relied upon simultation to identify how industry should act rather than relying solely on presently available data.

The contractor also found that:

> ICR has had little economic impact to date; total ICR collections to date are less than $2 million. Few jurisdictions have implemented ICR, and most of those who have implemented ICR have suspended ICR collections (as permitted by law) * * *

However, Coopers & Lybrand did investigate a number of related issues, including the likely impact of the existing ICR program on parity of industrial treatment costs, capacity of treatment works, water conservation and the contribution ICR would make to grantees' financial ability to meet its future treatment works needs.

In transmitting the Coopers & Lybrand study to Congress, EPA summarized the trends:

> changes in tax laws have largely mooted the question of . . . subsidy to industries.
>
> ICR has had only a minor impact upon water conservation.
>
> ICR has been extremely difficult to manage for both grantees and EPA.
>
> ICR produces little discretionary revenue for most local governments.

EPA also noted that the study was done with the cooperation of a broad-based ICR advisory group composed of local government, environmental, and industry representatives.

In its second report, transmitted on April 25, 1980, EPA intensified its analysis of subsidy issue and reached the following contrary conclusion:

> Based on a previous report to Congress and a supplemental analysis of the ICR program, EPA concludes that the construction grants program provides a subsidy to industrial users of municipal treatment systems. The extent of the subsidy cannot be accurately estimated, nor can benefits to industry be quantified on a national basis. Each case must be reviews individually. Conclusions must be based on an analysis of industrial capitalization, waste characteristics, the age of production facilities, and direct discharge treatment requirements. One general conclusion that can be made is industry receives an unsecured interest free loan, faces no obligation to repay construction costs if municipal treatment system use is discontinued, and is relieved of direct costs for treatment system operation, discharge permit compliance, and sludge disposal requirements.

Appearing before the Environmental Pollution Subcommittee on March 18, 1980, EPA Administrator Douglas Costle argued that with certain modifications of its provisions, industrial cost recovery could achieve its original objectives. These modifications included raising the flow exemption for small users from 25,000 to 50,000 gallons per day in order to lessen the adminstrative burden on grantees and to benefit a greater number of small, marginal firms, without significantly reducing ICR revenues. EPA also recommended it be given discretionary authority to exempt an individual community from ICR upon a demonstration that it has an alternative mechanism to provide for financing future capital expenditures and that ICR insignificantly contributes to its funding program.

A final option presented by EPA would permit grantees to avoid ICR requirements if industrial capacity financing is not sought from the Federal government.

The Committee does not share EPA's confidence that the ICR regulations can be repaired to effectively accomplish the Congress' original intent.

The stream of revenues returned by ICR over the 30-year period without interest will not be adequate to finance additional treatment needs because of the impact of inflation on both construction costs and the present value of the recovered funds.

Permitting case-by-case exemption will create new uncertainty for industrial users over the costs of participation in municipal systems.

None of EPA's recommendations, even making the Federal financing of industrial costs optional, will eliminate the enormous administrative and managerial burden ICR imposes on both grantees and the agency itself. By its very nature, the complex regulatory and financial scheme, with its major demands on scarce personnel resources, cannot succeed. By its terms, ICR maintains a Federal presence in local waste treatment management for up to 30 years.

Section 5. The issue of Federal payments for treating industrial water pollution looms even larger today than when the construction grant program began. For this reason, in addition to recommending repeal of ICR, the Committee also approved a separate amendment which would prohibit the use of construction grants for treating industrial water pollution in the future.

Section 5 provides that, beginning in fiscal year 1981, no grant made under this program may be used to treat the wastewater flow of any industrial user greater than 50,000 gallons per day of sanitary waste equivalent.

The amendment does not prohibit grant assistance for step I facilities planning or for the preparation of construction drawings and specifications (step II) for facilities that jointly treat industrial and municipal wastewaters. In the event that additional planning and design for a prospective project may be made necessary as a result of this amendment, such additional costs will be eligible for an EPA step I or step II grant, in addition to any grant awarded previously.

The amendment is not intended to affect the financing of any project for which a step III grant award is made before fiscal year 1981. Further, it does not apply to the actual construction phase of any project for which construction plans and specifications are being developed under step II grant awards approved prior to April 30, 1980.

This amendment only affects project categories that are used by industrial dischargers. It does not affect to correct combined sewer overflows.

The amendment is intended to complement the committee's decision to repeal the industrial cost recovery provisions of existing law. By itself, ICR repeal neglects to address the major policy issue that faced this committee in 1972 and continues to loom today: whether the ever scarcer resources available for this program ought to be used to subsidize the wastewater treatment costs of industrial polluters.

According to the 1978 "Needs Survey", the total cost in current dollars of constructing eligible facilities is $106 billion. In budget documents provided to the Committee in January, EPA identified $53 billion of the $106 billion total as "high priority" needs. Assuming an annual appropriation of $4.5 billion (EPA's long term strategy level), and assuming a so-called modest inflation rate of 7 percent, it will take 26 years to complete a program that addresses only the highest priorities. Other mathematical exercises performed by EPA show that the target date for reaching all projects in the 1978 Needs Survey is infinity, at any inflation rate above about 5 percent annually.

This amendment begins the painful but essential process of seeking alternative means of funding certain wastewater treatment needs and reducing the total needs that the Federal Government is expected to finance. Based on EPA's estimate that 16.4 percent of the treatment works is attributable to industrial flow, the amendment could affect about $7 billion in Federal subsidies for future industrial treatment costs, an amount equivalent to two years' worth of Congressional appropriations. With inflation, that amount is expected to rise substantially, along with total needs.

The Committee does not intend to prohibit the joint treatment of industrial and municipal wastewaters in a publicly owned treatment works where that option is financially or otherwise attractive to a community. The grantee and industrial users would be free to arrange alternatives to Federal financing under this program for that portion of the treatment works attributable to industry's use. The same tax advantages enjoyed by direct dischargers could also be available to those industries which participate in joint municipal-industrial treatment systems in the future. These include tax exempt municipal bonds for pollution control.

EPA identified several other advantages to avoiding Federal grant assistance for industrial capacity, in testimony before the committee:

> Industrial users and grantees would have an ongoing financial interest in the treatment system. Industry, by virtue of its bond obligation, would not withdraw from the treatment system without financial liability, and both the grantee and industry would be concerned with treatment system performance and rehabilitation.
>
> The primary advantage to the government under this approach is that it would provide a strong incentive to construct cost effective treatment processes that are sized according to needs and include a minimum of speculative treatment capacity. Industry has no incentive to accurately project its treatment needs under the existing ICR program. Currently, industry estimates its needs but often uses less than is constructed for its use. In such cases, ICR is charged only for capacity actually used, and domestic users are required to make debt payments on excess capacity. Requiring industry to share in treatment system financing will encourage proper sizing of treatment facilities and discourage industrial withdrawal.

By excepting ongoing step III awards and prospective projects or portions thereof for which advanced engineering and design is already in progress, the committee hopes to avoid undue disruption in the program. The Committee has asked the Environmental Protection Agency to identify specific communities and projects affected by the amendment, but detailed information will be unavailable prior to filing this report. However, the Committee has been advised that projects to upgrade facilities in Providence, R.I. and to construct a co-incineration plant and related facilities in Memphis, Tennessee are not affected by the amendment.

The Committee notes with concern that the agency lacks readily available details on the extent and costs of industrial flows proposed for treatment in municipal plants, and expects such information to be developed as a matter of routine in the future.

The Committee is aware that this amendment, like the forgiveness from repaying the Federal grant resulting from ICR repeal, may create some inequities. However, inequities result any time a law is changed that affects individuals or firms in similar circumstances. A greater inequity may result if the Committee fails to reduce the federal commitment for financing certain wastewater treatment needs. Unless the eligible costs are brought under control soon, there will be few resources available to communities which will still be expecting federal funding for their projects many, many years into the future. The program, as currently constituted, cannot meet all the needs communities are expecting from it. This amendment begins the process of bringing other funding resources into the effort, and creating incentives to more efficient project design.

## HEARINGS

The Subcommittee on Environmental Pollution held three days of hearings on March 18, 20, and 31, 1980.

### EVALUATION OF REGULATORY IMPACT

The effect of this bill is to reduce the regulatory impact of the grant program for the construction of wastewater treatment projects. By repealing the industrial cost recovery requirement, the Committee has reduced the paperwork required on the part of local and Federal governments as well as private enterprises that discharge into municipal treatment systems. The previous requirements led to extensive recordkeeping on the part of local governments and by the industries involved in the system. The repeal of this provision also relieves the States and the Federal Government of the responsibility of supervising this aspect of a grant application and of overseeing the collection of the revenues for the life time of the plant.

This legislation does not create any new additional regulatory burdens and does not infringe on the privacy of any individuals.

## ROLLCALL VOTES

Section 7(c) of rule XXVI of the Standing Rules of the Senate requires publication of any rollcall votes. There were no rollcall votes. The bill was ordered reported by voice vote.

## COST OF LEGISLATION

In accordance with section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared a report on the costs to be incurred by the Federal Government resulting from the enactment of this bill. Such cost estimates are set forth below:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
*Washington, D.C., May 15, 1980.*

Hon. JENNINGS RANDOLPH,
*Chairman, Committee on Environment and Public Works,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a bill to extend certain authorizations in the Clean Water Act and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, MAY 15, 1980

1. Bill No.: Not yet assigned.

2. Bill title: A bill to extend certain authorizations in the Clean Water Act and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, May 8, 1980.

4. Bill purpose: The bill amends the Federal Water Pollution Control Act to authorize appropriations for the Environmental Protection Agency (EPA) for fiscal years 1981 and 1982. In addition the bill extends, from two to three years, the period during which EPA construction grants allotted to states are available for obligation before reallotment is required. It also makes that portion of construction costs attributable to the treatment of industrial wastes ineligible for EPA construction grants, beginning in fiscal year 1981. The bill would remove the current requirement for a local industry to pay the recipient of an EPA construction grant its share of the cost of constructing a wastewater treatment facility. The Administrator of EPA is directed to remove such requirements from affected grants made since March 1, 1973, or to release any grant recipient from obligations associated with such requirements. Finally, the bill authorizes the Administrator to use authorized funds for a grant to New York State to carry out a Hudson River PCB reclamation demonstration project.

The $320.9 million authorized in the bill for water pollution control activities in 1981 is $563.1 million below the amount previously authorized for 1980. The President requested $285.8 million in his 1981 budget, and $313.2 million was appropriated for fiscal year 1980.

5. Cost estimate: The bill authorizes the appropriation of funds for water pollution control activities in fiscal years 1981 and 1982. The impact on the federal budget is summarized in the following table.

[By fiscal years, in millions of dollars]

| | |
|---|---|
| Authorization level: | |
| 1981 | 320.9 |
| 1982 | 297.8 |
| 1983 | |
| 1984 | |
| 1985 | |
| Estimated outlays: | |
| 1981 | 74.6 |
| 1982 | 167.0 |
| 1983 | 184.8 |
| 1984 | 127.4 |
| 1985 | 43.7 |

The bill also eliminates provisions concerning industrial cost recovery fees in the Federal Water Pollution Control Act. This will result in a loss of receipts to the government, with a budget impact through 1985 as shown in the following table.

[By fiscal years, in millions of dollars]

| | |
|---|---|
| Estimated budget authority: | |
| 1981 | |
| 1982 | |
| 1983 | .5 |
| 1984 | 1.0 |
| 1985 | 1.5 |

| Estimated outlays: | |
|---|---|
| 1981 | |
| 1982 | |
| 1983 | .5 |
| 1984 | 1.0 |
| 1985 | 1.5 |

In the long term, receipts from industrial cost recovery fees prescribed by current law would be substantial. From EPA construction grant obligations to date affected by repeal of the cost recovery provisions, total fees would be about $2 billion, payable over 30 years. For each billion dollars obligated in the future, estimated recoveries would have been about $80 million.

The costs of this bill fall within budget subfunction 304.

6. Basis of estimate:

The bill extends the authorization for various provisions of the Federal Water Pollution Control Act. For the purposes of this estimate, it is assumed that the full amounts authorized for fiscal years 1981 and 1982 are appropriated for those years. Estimated expenditures in each year are based on the historical spendout rate.

Current law requires certain industrial users of wastewater treatment works to pay the states their share of the cost of constructing such facilities. The states, in turn, pay the United States Treasury half of the fees they collect. Based on information from EPA, it is estimated that industries subject to the fee account for an average of about 16 percent of total municipal wastewater treatment plant usage. Thus, over a 30-year period, the Treasury should recover approximately 8 percent of the total EPA construction grant expenditures. Since the enactment of the Federal Water Pollution Control Act of March 1, 1973, industrial cost recovery fees have been due for the period up until the enactment of the Clean Water Act of 1977. As a result of this latter act, there has been a moratorium on payment of these fees since December 27, 1977. Based on information from EPA, it is estimated that upon expiration of the moratorium on June 30, 1980, receipts to the Treasury would be $0.5 million in fiscal year 1983, $1.0 million in 1984, and $1.5 million in 1985. These receipts would primarily represent backlog payments.

The bill extends, from two to three years, the period during which EPA construction grants allotted to states are available for obligation before reallotment is required. The change may initially result in a slower obligation rate because states would no longer have to use or lose their EPA construction grants in two years. Over time, the same amount would eventually be obligated. A slower obligation rate may also result in somewhat lower outlays during the next few years; however, it is not possible at this time to estimate the short-term change in outlays. In the long run, total outlays would not be affected.

Also, beginning in fiscal year 1981, the bill prohibits the use of EPA construction grants for treatment, storage, or conveyance of the waste of an industrial user if the amount equals or exceeds 50 thousand gallons a day. As a result, localities and/or industries would have to finance that portion of the construction costs of treatment plants attributable to the treatment of industrial wastes, without federal funds. While this provision would somewhat reduce the long-term demand for construction grant funds, it would have no significant impact during the next several years.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 7, 1980, the Congressional Budget Office prepared a cost estimate for H.R. 6667, a similar bill ordered reported by the House Committee on Public Works and Transportation, April 23, 1980. The authorization level in the House version is $871.5 million for both fiscal years 1981 and 1982. Also, the House version does not extend the time period for availability of EPA construction grants, nor does it remove industrial cost recovery obligations made before December, 1977.

9. Estimate prepared by: Blaire French (225-7760)

10. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

## CHANGES IN EXISTING LAW

In the opinion of the Committee it is necessary to dispense with the requirements of section (12) of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

○

II

## Calendar No. 794

96TH CONGRESS
2D SESSION

# S. 2725

[Report No. 96–744]

To extend certain authorizations in the Clean Water Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, JANUARY 3), 1980

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following bill; which was read twice and ordered to be placed on the calendar

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# A BILL

To extend certain authorizations in the Clean Water Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Section 104(u)(1) of the Clean Water Act is amended by striking "and" after "June 30, 1975," and inserting after "September 30, 1980," the following: "not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,".

(b) Section 104(u)(2) of the Clean Water Act is amended by striking "and $3,000,000 for fiscal year 1980" and inserting in lieu thereof "$3,000,000 for fiscal year 1980, $2,524,000 for fiscal year 1981, and $2,774,000 for fiscal year 1982".

(c) Section 106(a)(2) of the Clean Water Act is amended by inserting after "1980" a comma and the following: "$48,730,000 for fiscal year 1981, and $53,500,000 for fiscal year 1982".

(d) Section 208(f)(3) of the Clean Water Act is amended by striking "and" after "1974," and inserting after "1980" a comma and the following: "not to exceed $39,000,000 for the fiscal year ending September 30, 1981, and not to exceed $42,900,000 for the fiscal year ending September 30, 1982".

(e) Section 208(j)(9) of the Clean Water Act is amended by striking "and $400,000,000 for fiscal year 1980," and inserting in lieu thereof a comma and the following: "$400,000,000 for fiscal year 1980, and $50,000,000 for fiscal year 1981,".

(f) Section 314 of the Clean Water Act is amended by striking "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980,

$13,500,000 for fiscal year 1981, and $14,850,000 for fiscal year 1982".

(g) Section 517 of the Clean Water Act is amended by striking "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $146,433,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

SEC. 2. Section 205(d) of the Clean Water Act is amended by striking "twelve months" and inserting in lieu thereof "twenty-four months" and by striking "twenty-four-month" and inserting in lieu thereof "thirty-six-month".

SEC. 3. Title I of the Clean Water Act is amended by adding the following new section:

### "HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until the end of the third full fiscal year after the enactment of this section. Funds allotted to the State of New York under section 205(a) shall be available under this subsection unless funds are made available to the State of New York for the work authorized by this section under section 115 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 516(b) of this Act.".

SEC. 4. (a) Paragraph (1) of subsection (b) of section 204 of the Clean Water Act is amended by striking out clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Clean Water Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Clean Water Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

(d) Section 201(h) of the Clean Water Act is amended by striking out the last sentence.

(e) The second sentence of section 213(d) of the Clean Water Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".

(f)(1) Section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

(h) Notwithstanding any other provision of this section or the Clean Water Act, a grantee shall retain all revenues derived from the payment of costs by industrial users of waste treatment service to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to title II of the Clean Water Act as determined by the Administrator, which have been collected prior to the enactment of this section, and such retained revenues shall be used for the operation and maintenance, reduction of debt, future expansion, and reconstruction of such project.

SEC. 5. Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(k) No grant made after September 30, 1980, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before April 30, 1980.".

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 96-983

# FEDERAL WATER POLLUTION CONTROL ACT EXTENSION

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MAY 15, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JOHNSON of California, from the Committee on Public Works and Transportation, submitted the following

# REPORT

[To accompany H.R. 6667]

[Including Cost Estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation to whom was referred the bill (H.R. 6667) to amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 104(u) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982"; and

(2) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".

(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by striking out "and 1980" and inserting in lieu thereof "1980, 1981, and 1982".

(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982".

(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1980" and inserting in lieu thereof "September 30, 1980, September 30, 1981, and September 30, 1982."

(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $400,000,000 for fiscal year 1981, and $400,000,000 for fiscal year 1982".

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $60,000,000 for fiscal year 1981, and $60,000,000 for fiscal year 1982".

**(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $150,000,000 for the fiscal year ending September 30, 1982".**

**SEC. 2. (a) Section 204(b) of the Federal Water Pollution Control Act is amended—**

**(1) in paragraph (1), by striking out ", (B) has made provision" and all that follows down through the semicolon at the end of clause (B) of such paragraph and by redesignating clause (C) of such paragraph (and any cross references thereto) as clause (B);**

**(2) by striking out paragraph (3); and**

**(3) by striking out paragraph (6).**

**(b) Section 75 of the Clean Water Act of 1977 is amended by striking out subsections (b) and (d).**

**(c) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence thereof.**

**(d) Section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".**

**(e) The amendments made by this section shall take effect on December 27, 1977.**

**SEC. 3. Section 301(i) of the Federal Water Pollution Control Act is amended by striking out "July 1, 1983" each place that it appears and inserting in lieu thereof at each such place "July 1, 1985". Such section 301(i) is further amended by striking out "within 180 days after the date of enactment of this subsection.", and inserting in lieu thereof a period.**

**SEC. 4. The last sentence of paragraph (1) of subsection (f) of section 206 of the Federal Water Pollution Control Act is hereby repealed.**

**SEC. 5. Section 302(a) of the Federal Water Pollution Control Act is amended (1) by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".**

## ANALYSIS OF H.R. 6667 AS REPORTED

Section 1 of H.R. 6667, as reported, extends through fiscal year 1982, at presently authorized funding levels, the following programs:

(1) Grants for manpower development and training of persons engaged in the operation and maintenance of sewage treatment works ($3 million per year);

(2) Grants for training projects, establishment of research scholarships in EPA, and provision of technical training ($1,500,000 per year);

(3) Grants to states and interstate agencies to assist them in administration of programs for prevention, reduction and elimination of pollution ($100 million per year);

The Committee has reauthorized the Section 106 program at $100 million per year in recognition of the vital importance of this effort. Unless the States are provided with the assistance necessary to carry out the mandates of the Act the goals of this important environmental initiative will not be achieved. The Committee expects that the Agency will request full funding of this authority to reflect the vital importance of this authority.

(4) Grants to and contracts with universities for programs for preparation of undergraduates to enter occupations which involve the design, operation and maintenance of treatment works, together with the award of scholarships by EPA ($7 million per year);

(5) Grants for developing and operating Section 208 areawide Federal treatment management planning processes ($150 million per year);

(6) The "Rural Clean Water Program"—The authority of the Secretary of Agriculture to enter into contracts with and provide technical assistance to owners of rural land for installation and management of measures incorporating best management practices to control nonpoint sources of pollution ($400 million per year);

(7) Grants to states (up to 70 percent) for classification of water quality of lakes, methods to control pollution of lakes, and methods to restore the quality of lakes ($60 million per year); and

(8) General administration of those provisions of the Federal Water Pollution Control Act which are not otherwise specifically funded in various sections of the act ($150 million per year).

With regard to areawide waste treatment management, the Committee notes that Section 208 of the Federal Water Pollution Control Act requires that an areawide waste treatment plan include identification of necessary treatment works, the establishment of construction priorities for treatment works, and processes to identify nonpoint sources of pollution and procedures to control such nonpoint sources. The Committee is very concerned over the emphasis which has been placed on nonpoint sources in the administration of the Section 208 program. The intent of Congress in enacting Section 208 was that an areawide waste treatment program, to be truly effective, must give equal consideration to both point and nonpoint sources of pollution and the Committee expects this intent to be fully implemented in the administration of the Section 208 program.

Section 2 of H.R. 6667, as reported, amends the Federal Water Pollution Control Act by deleting the industrial cost recovery provisions of the act. The Federal Water Pollution Control Act as amended in 1972 authorizes the Environmental Protection Agency to make grants to municipalities for 75 percent of the eligible costs of construction of publicly owned treatment works. Section 204(b) of the act provides that industries which utilize waste treatment works receiving construction grant assistance under the act must pay to the grantee that portion of the cost of construction of the treatment works which is allocable to the treatment of industrial wastes to the exent attributable to the Federal share of the cost of construction. The grantee is required to retain an amount of the revenues derived from the payment of costs by industrial users equal to the amount of the non-Federal costs of the project paid by the grantee plus the amount necessary for certain administrative costs and for the expansion and reconstruction of the project. The retained amount may not exceed 50 percent of the revenues received from industrial users. The industrial revenues not retained by the grantee are deposited in the United States Treasury as miscellaneous receipts. The industrial payments are to be made by industry over a 30-year period.

The industrial cost recovery (ICR) provision was included in the 1972 amendments because of a number of concerns. Federal policy with respect to waste treatment was, to the extent feasible, not meant to be a source of competitive disadvantage between industries utilizing municipal waste treatment systems and those not utilizing such systems. Wasterwater treatment systems were intended to be designed and constructed with adequate but not excess capacity for future growth. Water conservation was meant to be recognized and encouraged as a national goal. Grantee self sufficiency was intended to be facilitated.

Finally, Congress intended to foster industrial participation in POTW's and the development of regional approaches to wastewater treatment where feasible.

As EPA progressed with the implementation of industrial cost recovery, there were increasing complaints from municipalities and others that the mechanism required to assess and collect ICR charges was so burdensome that administrative costs exceeded the monies recovered and retained. Industries reported that the additional cost attributable to ICR was, in many cases, driving them away from regional publicly owned waste treatment plants. Industries in highly-developed areas which were required to discharge into municipal plants—because they lacked any alternative to do their own treatment—stated that ICR acted as a penalty which in some cases caused them to shut down and either relocate or go out of business entirely.

The Committee heard these reports and became increasingly concerned about the impact of ICR. Therefore, in the 1977 amendments to the Federal Water Pollution Control Act a provision was developed which called for EPA to submit to Congress by December 1978 a study of the efficiency of and the need for ICR. On January 25, 1979, the study was transmitted to Congress. The study concluded that the industrial cost recover provisions of section 204(b)(1) of the Federal Water Pollution Control Act are not effective in accomplishing their legislative purposes.

The significant findings of the contractor included:

> Changes in the tax laws have rendered moot the question of the Construction Grants program being a subsidy to industries utilizing publicly owned treatment works;
>
> ICR has had only a minor impact upon water conservation, when compared to the effects of proportionate user charges. In most cases, ICR has had an insignificant impact on industrial decision-making;
>
> ICR has been extremely difficult to manage for both grantees and EPA, and will continue to be a resource intensive activity if ICR is continued. ICR tends to be more of a managerial burden in small communities than in large communities;
>
> The exemption for industries with flows of 25,000 gallons or less per day makes the program somewhat more manageable for grantees, but is inequitable because many industries are exempted from ICR based only on size;
>
> With the exception of small communities with very large industrial flows, ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR;
>
> ICR is a 30-year program after the construction is completed. During this period, the industrial payment received by the U.S. Treasury is estimated to be $30 million per year.
>
> The user charge system is effective in accomplishing the bulk of the aims of ICR, especially in inducing waste reduction or water conservation.

However, EPA qualified the contractor's conclusions by stating that the study took place early in the actual implementation of the ICR program, and that there was only a limited quantity of actual data available. Therefore, EPA declined to endorse the contractor's recommendations that ICR be abolished and stated it would be preparing its own legislative package.

Because of the delay in completion of the EPA legislative proposals, the moratorium on implementation of industrial cost recovery was extended an additional year, to June 30, 1980, by Public Law 96–148.

The Environmental Protection Agency formally submitted to Congress a supplement to its January 1979 ICR report. In this report the Agency concluded that the construction grants program provides a subsidy to industrial users of municipal treatment systems. It notes that industry faces no obligation to repay construction costs if municipal system treatment use is discontinued, and is relieved of direct costs for treatment system obligation, discharge permit compliance, and sludge disposal requirements. The Agency further concludes that in some instances industry can construct self-treatment facilities for less than it costs to use municipal treatment systems. In addition, the Agency states that its review shows the program is expensive to administer for some grantees and that administrative costs may exceed the share of industrial cost recovery revenues retained by grantees for treatment system improvements.

The report suggests that industrial cost recovery be retained in some form and suggests a number of changes for consideration by the Congress.

The Committee has held extensive hearings on industrial cost recovery and has received testimony and other material from a large number of individuals, organizations, industries, state and local governments, and the Environmental Protection Agency. In addition, we have closely examined the interim and final supplemental reports of the Agency on the subject of the effectiveness of industrial cost recovery. The Committee concludes that industrial cost recovery does not serve the original intent of Congress in enacting it and is discriminatory, unworkable, and not cost-effective in a large number of instances. The Committee further concludes that the changes in the program recommended by the Environmental Protection Agency would not serve to correct the difficulties present and that the most reasonable solution to the problems associated with industrial cost recovery lies in its elimination. This will allow grantees and industries to develop and implement the most equitable and effective repayment provisions on a case by case basis.

Section 3 of H.R. 6667, as reported, amends Section 301(i) of the Federal Water Pollution Control Act to extend the municipal compilance deadline from July 1, 1983, to July 1, 1985. Section 301(i) provides that where construction of a treatment plant is required to meet the requirements of the act but construction cannot be completed within the time required or the United States has failed to make financial assistance available in a timely manner, the owner or operator of the treatment works may request the Administrator of the Environmental Protection Agency to issue a permit pursuant to Section 402 of the act, or to modify a permit, to extend the time for compliance. The Administrator is authorized to grant such a request and to issue or modify a permit containing a schedule of compliance. The time by which compliance must be obtained may not be later than July 1, 1983. The funding of the grant program has not been maintained at the authorized rate, making it impossible for many municipalities to meet the 1983 date. Section 3, accordingly, extends this date to July 1, 1985. This section also removes the requirement in Section 301(i) that a request for compliance be filed with the Administrator within 180 days after the date of enactment of the 1977 amendments to the Federal Water Pollution Control Act.

Section 4 of H.R. 6667, as reported, repeals the last sentence of paragraph 1 of subsection (f) of Section 206 of the Federal Water Pollution Control Act. Section 206 authorizes reimbursement to municipalities which utilize their own resources to construct a municipal wastewater facility. This provision was included in the Act in recognition of the fact that some communities are able to build facilities faster than the funds made available by the Federal Government through the grant program will allow. The sentence which would be deleted provides that the Administrator may not approve an application for reimbursement unless an authorizaiton is in effect for the future fiscal year for which the application requests payment, which authorization would insure such payment without exceeding the State's expected allotment from such authorization. This provision effectively renders the reimbursement provision unworkable, because recent experience demonstrates that it is extremely difficult to predict with any certainty the future appropriations for the grant program. The removal of this provision will enable the reimbursement authority to be utilized and will encourage a speedy cleanup of our Nation's waters by removing an existing impediment to construction of facilities before grant funds are in hand.

Section 5 of H.R. 6667, as reported, amends Section 203(a) of the Federal Water Pollution Control Act by raising the construction cost limits applicable to the combined grant procedure. Section 203(a) provides that where a treatment works has an estimated total cost of $2 million or less ($3 million or less in a state with unusually high costs of construction) and the population of the applicant municipality is 25,000 or less, upon completion of an approved facility plan a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. The purpose of this provision is to reduce the amount of "red tape" encountered by areas of small population constructing inexpensive treatment works. The amendment raises the $2 million ceiling to $4 million and the $3 million to $5 million in recognition of increased costs attributable to inflation since enactment of the original provision.

## COMPLIANCE WITH CLAUSE 2(l) OF RULE XI OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Oversight and Review held hearings July 11, 12, 17, 18, 1979, on the Section 208 Areawide Waste Treatment Management Program. Hearings were also conducted October 30, 31, and November 1, 1979, on the municipal wastewater Construction Grants Program and the State Management Assistance Program. In addition, the Subcommittee on Water Re-

sources held hearings on the subject matter of this legislation, which hearings resulted in the reported bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the House of Representatives the bill, as reported, does not provide new budget authority or increased tax expenditures. Accordingly, a statement pursuant to section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(C) of rule XI of the Rules of the House of Representatives, the committee has received an estimate and comparison by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act. The report is as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
*Washington, D.C., May 7, 1980.*

Hon. HAROLD T. JOHNSON,
*Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6667, a bill to amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

### CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 7, 1980.

1. Bill number: H.R. 6667.
2. Bill title: A bill to amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery.
3. Bill status: As ordered reported by the House Committee on Public Works and Transportation, April 23, 1980.
4. Bill purpose: H.R. 6667 amends the Federal Water Pollution Control Act to authorize appropriations for the Environmental Protection Agency (EPA) for fiscal years 1981 and 1982. The bill also amends current law to exempt local industries from paying to the grantee their share of the cost of constructing a wastewater treatment facility, effective December 27, 1977.

The $871.5 million authorized in the bill for water pollution control activities in 1981 and 1982 is identical to the amount previously authorized for 1980. The President requested $335 million in his 1981 budget, and $331.6 million was appropriated for fiscal year 1980.

5. Cost estimate: Section 1 of H.R. 6667 authorizes the appropriation of funds for water pollution control activities in fiscal years 1981 and 1982. The impact on the federal budget is summarized in the following table.

| | *Millions* |
|---|---|
| **Authorization level:** | |
| **Fiscal year:** | |
| 1981 | $871.5 |
| 1982 | 871.5 |
| 1983 | ----- |
| 1984 | ----- |
| 1985 | ----- |
| **Estimated outlays:** | |
| **Fiscal year:** | |
| 1981 | 167.4 |
| 1982 | 344.8 |
| 1983 | 390.0 |
| 1984 | 331.4 |
| 1985 | 210.5 |

Section 2 of H.R. 6667 eliminates provisions concerning industrial cost recovery fees in the Federal Water Pollution Control Act. This will result in a loss of receipts to the government, with a budget impact through 1985 as shown in the following table.

| | *Millions* |
|---|---|
| **Estimated budget authority:** | |
| **Fiscal year:** | |
| 1981 | ---- |
| 1982 | ---- |
| 1983 | 0.5 |
| 1984 | 1.0 |
| 1985 | 1.5 |
| **Estimated outlays:** | |
| **Fiscal year:** | |
| 1981 | ---- |
| 1982 | ---- |
| 1983 | 0.5 |
| 1984 | 1.0 |
| 1985 | 1.5 |

In the long term, receipts from industrial cost recovery fees prescribed by current law would be substantial. From EPA construction grant obligations to date affected by repeal of the cost recovery provisions ($8.4 billion from December 27, 1977 through April, 1980), total fees would be about $0.7 billion, payable over 30 years. For each billion dollars obligated in the future, estimated recoveries would have been about $80 million.

The costs of this bill fall within budget subfunction 304.

6. Basis of estimate: Section 1 of H.R. 6667 extends the authorizations for various provisions of the Federal Water Pollution Control Act. For the purposes of this estimate, it is assumed that the full amounts authorized for fiscal years 1981 and 1982 are appropriated for those years. Estimated exepnditures in each year are based on the historical spendout rate for each program affected.

Current law requires certain industrial users of wastewater treatment works to pay the states their share of the cost of constructing such facilities. The states, in turn, pay the United States Treasury half of the fees they collect. Based on information from EPA, it is estimated that industries subject to the fee account for an average of about 16 percent of total municipal wastewater treatment plant usage. Thus, over a 30-year period, the Treasury should recover approximately 8 percent of total EPA construction grant expenditures. Since the enactment of the Clean Water Act of 1977 on December 27, 1977, there has been a moratorium on payment of these fees. Based on information from EPA, it is estimated that upon expiration of the moratorium on June 30, 1980, receipts to the Treasury would be $0.5 million in fiscal year 1983, $1.0 million in 1984, and $1.5 million in 1985. These receipts would primarily represent backlog payments.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 22, 1979, the Congressional Budget Office prepared a cost estimate for H.R. 4023, a bill to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery, as ordered reported by the House Committee on Public Works and Transportation, June 21, 1979.

9. Estimate prepared by Blaire French (225–7760).

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum, Assistant
Director for Budget Analysis).

(4) With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the following information is provided: The effect of carrying out H.R. 6667, as reported, should be minimal with respect to prices and cost. The funds authorized to be appropriated by H.R. 6667, as reported, simply involve the continuation of existing authorization levels for two additional fiscal years.

## Cost of Legislation

Rule XIII(7) of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 6667, as reported, in fiscal year 1980 and each of the following five years. It is not possible at this time to predict the amount of the appropriations which will be made to carry out the programs in section 1 of the bill. Accordingly, for the purpose of the estimate, the total is $1,743,000,000, the total amount of the authorization.

With regard to section 2, which deletes the requirement for industrial cost recovery, the Congressional Budget Office estimates that, over a 30-year period, with industrial cost recovery in the Act, the Treasury should recover approximately 8 percent of total EPA expenditures and that, over the next five years, receipts to the Treasury would be $3,000,000. These estimates were developed from data supplied by EPA.

EPA's data and CBO's treatment of that data, unfortunately, did not analyze on a net or total revenue basis the effect of the Act's requirement that one-half of the ICR revenues must be returned to the Federal government. The data overlooked the fact that, in calculating companies' Federal and State income taxes, IRC payments would be claimed by the companies as a business expense. Since most companies are in the 46 percent income tax bracket, the Federal Treasury will net only 4 percent of the ICR payment, not the full 50 percent that EPA's data would lead one to believe is being netted. Thus, the real net economic effect and cost of the bill's ICR repeal provision is relatively minimal and is not, in the long term, as substantial as the CBO report states.

Sections 3, 4 and 5 do not involve additional cost to the Federal government.

### VOTE

The Committee in compliance with rule XI(2)(l)(2)(A), reports favorably the bill H.R. 6667, as amended. The committee ordered the bill reported by voice vote.

### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### FEDERAL WATER POLLUTION CONTROL ACT

* * * * * * *

## TITLE I—RESEARCH AND RELATED PROGRAMS

* * * * * * *

### RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) * * *

* * * * * * *

(u) There is authorized to be appropirated (1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and not to exceed $14,039,000 for the fiscal year ending September 30, 1980, for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, [and] $3,000,000 for fiscal year 1980, *$3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982*, for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, [and] $1,500,000 for fiscal year 1980, *$1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982*, for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t).

* * * * * * *

GRANTS FOR POLLUTION CONTROL PROGRAMS

SEC. 106 (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 or the fiscal year ending June 30, 1974 *and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979,* [and] *1980, 1981, and 1982;*

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including inforcement directly or through appropriate State law enforcement officers or agencies.

* * * * * * *

DEFINITIONS AND AUTHORIZATIONS

SEC. 112. (a) * * *

* * * * * * *

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, [and] $7,000,000 for the fiscal year ending September 30, 1980, *$7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982*, to carry out sections 109 through 112 of this Act.

* * * * * * *

## TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

PURPOSE

SEC. 201. (a) * * *

* * * * * * *

(h) A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on the date of enactment of this subsection where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 204 of this Act and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial establish-

ments will be less than the cost of providing a system of collection and central treatment of such wastes.

[In the case of any treatment works assisted under this subsection serving commercial users, any such agreement under paragraph (2) shall make provision for the payment to the United States by the commercial users of the treatment works of that portion of the cost of construction of such works which is applicable to the treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.]

* * * * * * *

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(g)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project. In the case of a treatment works that has an estimated total cost of [$2,000,000] *$4,000,000* or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approval facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. If any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost of the treatment works does not exceed [$3,000,000.] *$5,000,000.*

* * * * * * *

LIMITATIONS AND CONDITIONS

SEC. 304. (a) * * *

(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(g)(1) after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share *(except as otherwise provided in this paragraph)* of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant[; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction (which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made) ;] and [(C)] (*B*) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of the date of enactment of this sentence, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the waste, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate.

* * * * * * *

[(3) The grantee shall retain an amount of the revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this title as determined by the Administrator, equal to (A) the amount of the non-Federal cost of such project paid by the grantee plus (B) the amount, determined in accordance with regulations promulgated by the Administrator, necessary for the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and future expansion and reconstruction of the project, except that such retained amount shall not exceed 50 per centum of such revenues from such project. All revenues from such project not retained by the grantee shall be deposited by the Administrator in the Treasury as miscellaneous receipts. That portion of the revenues retained by the grantee attributable to clause (B) of the first sentence of this paragraph, together with any interest thereon shall be used solely for the purposes of future expansion and reconstruction of the project. Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to the enactment of the Clean Water Act of 1977 may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.]

* * * * * * *

[(6) The Administrator is authorized to exempt from the requirement of paragraph (1) (B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.]

* * * * * * *

### REIMBURSEMENT AND ADVANCED CONSTRUCTION

SEC. 206. (a) * * *

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(f) (1) In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act, and there is construction of any treatment work project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are alloted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. [The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.]

* * * * * * *

### AREAWIDE WASTE TREATMENT MANAGEMENT

SEC. 208. (a) * * *

* * * * * * *

(f) (1)

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30,

1979, [and] September 30, 1980, *September 30, 1981, and September 30, 1982.*

*       *       *       *       *       *       *

(j)(1) * * *

*       *       *       *       *       *       *

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979 [and], $400,000,000 for fiscal year 1980, *$400,000,000 for fiscal year 1981, and $400,000,000 for fiscal year 1982*, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

*       *       *       *       *       *       *

### LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

SEC. 213. (a) * * *

*       *       *       *       *       *       *

(d) The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment which would apply to such repayment. Such commitment may include, but not be limited to, [(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this act, and (2)] any funds received by such grantee from the amounts appropriated under section 206 of this act.

*       *       *       *       *       *       *

## TITLE III—STANDARDS AND ENFORCEMENT

### EFFLUENT LIMITATIONS

SEC. 301. (a) * * *

*       *       *       *       *       *       *

(i)(1) Where construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (A) construction cannot be completed within the time required in such subsection, or (B) the United States has failed to make financial assistance under this Act available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) [within 180 days after the date of enactment of this subsection]. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, [1983] *1985*, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 201 of this Act, section 307 of this Act, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this Act.

(2)(A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section and—

(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works: or

(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

(iii) if either an application made before July 1, 1977, for a construction grant under this Act for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works,

and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 402 to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after the date of enactment of this subsection or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of this Act.

(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, [1983] *1985*; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, [1983] *1985*, and will meet the requirements to subsections (b)(1)(B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires point source to meet all requirements under section 307(a) and (b) during the period of such time modification.

* * * * * * *

### CLEAN LAKES

SEC. 314. (a) * * *

* * * * * * *

(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year 1974; $150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, [and] $60,000,000 for fiscal year 1980, *$60,000,000 for fiscal year 1981, and $60,000,000 for fiscal year 1982* for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

* * * * * * *

## TITLE V—GENERAL PROVISIONS

* * * * * * *

### GENERAL AUTHORIZATION

SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, [and] $150,000,000 for the fiscal year ending September 30, 1980, *$150,000,000 for the fiscal year ending September 30, 1981, and $150,000,000 for the fiscal year ending September 30, 1982.*

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## 18

## SECTION 75 OF THE CLEAN WATER ACT OF 1977

### COST RECOVERY STUDY

SEC. 75. (a) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction. Such study shall include, but not be limited to, an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment. No later than the last day of the twelfth month which begins after the date of enactment of this section, the Administrator shall submit a report to the Congress setting forth the results of such study.

[(b) During the period beginning on the date of enactment of this section and ending on June 30, 1980 (both dates inclusive), no officer or employee of the Federal Government shall enforce, or require any recipient of a grant under section 201(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1284) to enforce, any provision in an application for a grant or in a grant agreement under such section which requires any payments by industrial users pursuant to section 204(b)(1)(B) of such Act.]

(c) For purposes of this section, the terms "industrial user" and "treatment works" have the same meaning given such terms in the Federal Water Pollution Control Act.

[(d) Any payment by an industrial user which, but for subsection (b) of this section, was due and payable during the thirty-month period described in such subsection shall after such thirty-month period be paid in accordance with the applicable provisions of the Federal Water Pollution Control Act in equal annual installments prorated over the remaining useful life of the treatment works with respect to which they are required to be paid.]

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## Union Calendar No. 605

96TH CONGRESS
2D SESSION

# H. R. 6667

**[Report No. 96–983]**

To amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1980

Mr. ROBERTS (for himself, Mr. CLAUSEN, and Mr. JOHNSON of California) introduced the following bill; which was referred to the Committee on Public Works and Transportation

MAY 15, 1980

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* ~~That (a) section 104(u) of the Federal Water Pollution Control Act is amended—~~

~~(1) in paragraph (2), by striking out “and $3,000,000 for fiscal year 1980” and by inserting in lieu thereof “$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982”; and~~

~~(2) in paragraph (3), by striking out “and $1,500,000 for fiscal year 1980” and inserting in lieu thereof “$1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982”.~~

~~(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by striking out “and 1980” and inserting in lieu thereof “1980, 1981, and 1982”.~~

~~(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out “and $7,000,000 for the fiscal year ending September 30, 1980” and inserting in lieu thereof “$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982”.~~

~~(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out “and September 30, 1980” and inserting in lieu thereof “September 30, 1980, September 30, 1981, and September 30, 1982”.~~

~~(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out “and $400,000,000 for fiscal year 1980” and inserting in lieu thereof “, $400,000,000 for fiscal year 1980, $400,000,000 for fiscal year 1981, and $400,000,000 for fiscal year 1982”.~~

~~(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out “and $60,000,000 for fiscal year 1980” and inserting in lieu thereof “$60,000,000 for fiscal year 1980, $60,000,000 for fiscal year 1981, and $60,000,000 for fiscal year 1982”.~~

~~(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out “and $150,000,000 for the fiscal year ending September 30, 1980” and inserting in lieu thereof “$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $150,000,000 for the fiscal year ending September 30, 1982”.~~

~~SEC. 2. (a) Section 204(b) of the Federal Water Pollution Control Act is amended—~~

~~(1) in paragraph (1), by striking out “; (B) has made provision” and all that follows down through the semicolon at the end of clause (B) of such paragraph and by redesignating clause (C) of such paragraph (and any cross references thereto) as clause (B);~~

~~(2) by striking out paragraph (3); and~~

~~(3) by striking out paragraph (6).~~

~~(b) Section 75 of the Clean Water Act of 1977 is amended by striking out subsections (b) and (d).~~

~~(c) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence thereof.~~

~~(d) Section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".~~

~~(e) The amendments made by this section shall take effect on December 27, 1977.~~

*That (a) section 104(u) of the Federal Water Pollution Control Act is amended—*

*(1) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982"; and*

*(2) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".*

*(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by striking out "and 1980" and inserting in lieu thereof "1980, 1981, and 1982".*

*(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1980, and $7,000,000 for the fiscal year ending September 30, 1982".*

*(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1980" and inserting in lieu thereof "September 30, 1980, September 30, 1981, and September 30, 1982".*

*(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $400,000,000 for fiscal year 1981, and $400,000,000 for fiscal year 1982".*

*(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $60,000,000 for fiscal year 1981, and $60,000,000 for fiscal year 1982".*

*(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $150,000,000 for the fiscal year ending September 30, 1982".*

*SEC. 2. (a) Section 204(b) of the Federal Water Pollution Control Act is amended—*

*(1) in paragraph (1), by striking out "; (B) has made provision" and all that follows down through the semicolon at the end of clause (B) of such paragraph and by redesignating clause (C) of such paragraph (and any cross references thereto) as clause (B);*

*(2) by striking out paragraph (3); and*

*(3) by striking out paragraph (6).*

*(b) Section 75 of the Clean Water Act of 1977 is amended by striking out subsections (b) and (d).*

*(c) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence thereof.*

*(d) Section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".*

*(e) The amendments made by this section shall take effect on December 27, 1977.*

*Sec. 3. Section 301(i) of the Federal Water Pollution Control Act is amended by striking out "July 1, 1983" each place that it appears and inserting in lieu thereof at each such place "July 1, 1985". Such section 301(i) is further amended by striking out "within 180 days after the date of enactment of this subsection.", and inserting in lieu thereof a period.*

*Sec. 4. The last sentence of paragraph (1) of subsection (f) of section 206 of the Federal Water Pollution Control Act is hereby repealed.*

*Sec. 5. Section 203(a) of the Federal Water Pollution Control Act is amended (1) by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".*

# CHAPTER VIII

## PUBLIC LAW 96-148

TEXT OF CLEAN WATER ACT OF 1977 AMENDMENT (*PUBLIC LAW 96-148*); HOUSE DEBATE AND PASSAGE OF S. 901, DECEMBER 1979; SENATE DEBATE AND PASSAGE OF S. 901, NOVEMBER 1979; HOUSE COMMITTEE REPORT ON H.R. 4023 (*HOUSE REPORT NO. 96-305*); H.R. 4023, AS REPORTED; SENATE DEBATE AND PASSAGE OF S. 901, JUNE 1979; SENATE COMMITTEE REPORT ON S. 901 (*SENATE REPORT NO. 96-200*); S. 901, AS REPORTED.

**Note:** This law modified a provision of the Clean Water Act of 1977 dealing with a moratorium on industrial cost recovery (section 75 of the 1977 Act, concerning section 201(g)(1) of the Federal Water Pollution Control Act). The Senate Environment and Public Works Committee approved and reported S. 901 on June 5, 1979. The Senate considered and passed the bill by voice vote on June 14. The House Public Works and Transportation Committee approved and reported H.R. 4023 on June 25, and the House considered and passed the bill by voice vote on June 26. Thereafter, the House vacated passage of H.R. 4023 and passed S. 901, amended, in lieu. On November 30 the Senate concurred in House amendments to S. 901 with an amendment, and on December 3 the House concurred in the Senate amendments to the bill. President Carter approved S. 901 on December 16, 1979.

# Public Law 96-148
# 96th Congress

## An Act

Dec. 16, 1979
[S. 901]

To amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery.

Clean Water Act of 1977, amendment.
33 USC 1284 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "eighteen-month" each place it appears and inserting in lieu thereof in each place "thirty-month".

Effective date.
33 USC 1284 note.

(c) The amendments made by subsections (a) and (b) of this section shall take effect as of June 30, 1979.

Approved December 16, 1979.

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LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-305 accompanying H.R. 4023 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-200 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 125 (1979):
June 14, considered and passed Senate.
June 26, H.R. 4023 considered and passed House; passage vacated and S. 901, amended, passed in lieu.
Nov. 30, Senate concurred in House amendments with an amendment.
Dec. 3, House concurred in Senate amendment.

# HOUSE DEBATE ON S. 901

*December 3, 1979*
(Congressional Record, vol. 125, part 26, 34340-34342)

## CLEAN WATER ACT AMENDMENTS

**Mr. ROBERTS.** Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 901) to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610), with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "eighteen-month" each place it appears and inserting in lieu thereof in each place "thirty-month".

(c) The amendments made by subsections (a) and (b) of this section shall take effect as of June 30, 1979.

**The SPEAKER.** Is there objection to the request of the gentleman from Texas?

**Mr. HARSHA.** Mr. Speaker, reserving the right to object, I shall not object if the gentleman will explain the measure he is offering.

**Mr. ROBERTS.** Mr. Speaker, will the gentleman yield?

**Mr. HARSHA.** I yield to the gentleman from Texas.

**Mr. ROBERTS.** Mr. Speaker, S. 901, as amended by the Senate would extend the moratorium for 1 year and, as provided in the House-passed bill, clarifies that there is no break in the moratorium from June 30, 1979, and the date of enactment of this legislation.

S. 901 amends section 75 of the Federal Water Pollution Control Act Amendments of 1977 and extends for 1 year, from June 30, 1979 to June 30, 1980, the moratorium on collecting industrial cost recovery payments.

In the 1977 act, the House sponsored a provision which calls for a 12-month study by the Environmental Protection Agency (EPA) of the efficiency of, and the need for, industrial cost recovery (ICR) payments. The study was to include, but not be limited to, an analysis of such payments on rural communities and on industries in economically distressed areas or in areas of high unemployment.

The House gave very specific directions as to what the study should encompass, and directly called for recommendations by EPA to accompany the study report.

In January 1979 the study was submitted to Congress. The major finding of the contractor was that ICR is ineffective in achieving its legislative purposes.

The significant findings of the contractor include:

Changes in the tax law mooted the question of the construction grant program being a subsidy to industries that participate in municipal treatment works;

User charges have had a more significant impact on water conservation practices than industrial cost recovery;

ICR has been an administrative burden for both EPA and municipalities;

ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR.

On the basis of this information, it was expected that EPA would develop recommendations as to legislative alternatives to ICR, including whether the provisions should be repealed. However, EPA decided not to endorse the contractor's recommendations and stated they would prepare a separate analysis of alternatives and recommendations. It has been almost 1 year since the study was due, and the committee has yet to receive any recommendations from EPA on substantive disposition of ICR.

In order that Congress may move expeditiously to resolve ICR, it is expected that EPA will move immediately to develop such recommendations and alternatives. It is expected that such recommendations will be formally submitted to Congress when the new session begins in January 1980.

In developing these recommendations, EPA is to take into account, among many other things:

An analysis of the impact of Federal tax laws on an industry's decision to discharge either directly or as part of a municipal system;

The combined impact of pretreatment costs and requirements, user charges, and industrial cost recovery on an industry's decision to join a municipal waste treatment works;

The net effect of amendments contained in the Federal Water Pollution Control Act Amendments of 1977: The provision allowing municipalities to modify an industry's pretreatment requirements and the provision allowing EPA to exempt from industrial cost recovery any industrial use with a flow equivalent to 25.000 gallons or less per day of sanitary waste;

The impact of abolishing ICR altogether; and

The total amount of money which can be expected to be collected through the implementation of ICR when compared with the costs of administering the system.

S. 901 extends the ICR moratorium for 1 full year—from June 30, 1979, to June 30, 1980. There is absolutely no break in the terms of the moratorium, as set out in section 75 of the Federal Water Pollution Control Act of 1977, during the period of July 1, 1979, and the date of enactment of S. 901.

Section 204(b)(1) of the act requires grantees with industry tie-ins to develop an approvable industrial cost recovery system as a condition of the grant award. This condition is not affected during the time of the moratorium. However, the administrator is expected to continue to make grants and not to withhold any funding. According to EPA regulations, EPA cannot pay more than 50 percent of the Federal grant unless the grantee has submitted adequate evidence of timely development of its system, nor more than 80 percent of such grant unless the regional administrator has approved the system. It is expected that EPA will continue this policy until either the moratorium ends or Congress legislates on ICR, whichever occurs first.

Mr. Speaker, the Subcommittee on Water Resources held a full day of hearings on this matter. We heard from the Environmental Protection Agency and representatives of industry cities, States, and environmental groups. All witnesses unanimously supported the need to extend the moratorium on industrial cost recovery.

I urge the enactment of this necessary legislation.

Mr. HARSHA. Mr. Speaker, I reluctantly support the bill the Senate has sent to us. While an extension of the moratorium on the industrial cost recovery requirement of the Clean Water Act is vitally necessary, I doubt that S. 901 will solve our problems, only postpone them.

At the administration's request, the House has passed H.R. 4023 which extended the moratorium on ICR, imposed by the 1977 Clean Water Act, for 2 years. This was felt necessary in order to provide enough time for consideration of the recommendations which were to accompany the study on the need for industrial cost recovery mandated by section 75 of the 1977 Clean Water Act. As many will note, $500,000 has already been expended to conduct that study. However, EPA did not favor us with their recommendations, transmitting to Congress only the study without its conclusions. After the House had favorably considered H.R. 4023, EPA, in a letter dated August 9 from then Assistant Administrator Thomas Jorling, promised to forward recommendations to Congress by the end of the first session. While that date is not yet upon us because of the recent extensions of the first session, I doubt that EPA will make it. In light of that, I foresee great difficulty for Congress to adequately reflect on any administration recommendations and develop appropriate legislation. I hope that I am wrong.

Mr. Speaker, in my remarks accompanying the passage of H.R. 4023 I made note of the testimony received by the committee from the Environmental Protection Agency. At the hearing by the Subcommittee on Water Resources on this legislation, EPA stated that they would interpret the congressional intent of extending the moratorium to include extending the date by which grantees are required to have an approved ICR system. I will not take the time of the House today to reiterate the intent with respect to that issue for I feel it is adequately covered by the debate on H.R. 4023. I merely restate that nothing has changed since the passage of H.R. 4023, we support the Agency's interpretation.

Mr. Speaker, I urge the adoption of S. 901 as sent to us by the Senate and hope my colleagues will join in sending this legislation to the President.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

● Mr. CLAUSEN. Mr. Speaker, as the principal author of section 75 of the 1977 Clean Water Act which placed a moratorium on collection of industrial cost recovery payments pending a completion of a study by EPA of the efficiency of and need for the ICR requirement, I urge my colleagues to support S. 901 which extends that moratorium until June 30, 1980.

Last June the Committee on Public Works and Transportation brought to the floor H.R. 4023, an administration-requested bill which would have extended the moratorium for 2 years. It was felt necessary to have this additional time because, notwithstanding the requirements of the 1977 act, EPA had not forwarded any proposals or recommendations concerning the future of the industrial cost recovery. The Agency has still not made any ICR recommendations.

The current uncertainty over the future of ICR has caused a great deal of concern in industry and municipalities alike. While many Clean Water Act grantees have attempted to continue to develop the required ICR systems, many others have complained that they are spending time and money to develop systems that may never be used. Still other grantees have slowed or even halted the development of their systems. To further muddy the waters, approximately 1,000 approved ICR systems, less than 20 of the effected grantees have elected to collect ICR payments.

Mr. Speaker, this situation cannot be permitted to continue. Those who are required to develop ICR systems and make ICR payments must be able to act with a measure of confidence in our legislative and regulatory process. In my opinion, we owe it to those who are effected by ICR—in fact, it is our responsibility—to support S. 901 and extend the ICR moratorium until Congress has been given an adequate opportunity to reach a final decision on the future course of ICR.

And speaking of giving Congress an adequate opportunity, Mr. Speaker, let me just add one more comment. One of the major shortcomings of the Environmental Protection Agency's response to the 1977 Clean Water Act's section 75 and its requirement to study the effectiveness of the ICR provisions was the Agency's failure to make any recommendations to Congress concerning the future of the ICR provisions. This occurred despite the fact that the ICR study commissioned by EPA concluded that the ICR provisions should be repealed. I want to make perfectly clear that, in extending this moratorium, we expect EPA to forward to us, not just alternatives, but its recommendations for the future of ICR.

It is with these thoughts in mind that I urge my colleagues to support extension of the ICR moratorium until June 30 of next year.●

Mrs. HECKLER. Mr. Speaker, while I would have preferred the House 2-year moratorium version of this industrial cost recovery legislation, I do support the Senate's preference—a 1-year moratorium during which no charges, fees or assessments would be levied.

I view these moratoria, Mr. Speaker, as way stations on the road to outright repeal of the onerous provisions of section 204(b)(1) of the Federal Water Pollution Act Amendments of 1972. I am proud to have been the principal sponsor of that legislative effort for several years.

At my insistence, those amendments were subjected to the "trial by fire" of extensive public hearings in many of the major cities of this country including Fall River in the district I have the honor to represent in this House. The ICR charges imposed on the business and industry of Fall River would damage—seriously damage—the economy of that city.

The facts gathered at those EPA hearings and the additional research material which the Agency amassed resulted in an EPA verdict that this legislation was "not effective in accomplishing its legislative purposes."

Seldom have labor, business, and the EPA been in such total agreement on an important matter of public policy.

I shall continue my efforts, Mr. Speaker, until the ICR costs and charges are completely wiped off the statute books. Hopefully, that can and will be accomplished during the second session of this, the 96th Congress.

I wish to extend my compliments to the chairman of the House Public Works Committee—the gentleman from California, Mr. HAROLD T. JOHNSON, and to the ranking minority member of that committee, Mr. HARSHA of Ohio. They have done their usual able, thorough job. And I would like to offer special thanks to my friend and colleague from California, DON H. CLAUSEN, who has been an invaluable ally in this important effort.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of S. 901. This bill amends the Clean Water Act of 1977 to extend the moratorium on collecting industrial cost recovery payments from June 30, 1979, to June 30, 1980.

I congratulate the chairman of the Subcommittee on Water Resources, Congressman RAY ROBERTS of Texas, and the ranking minority member of the subcommittee, Congressman DON CLAUSEN of California, on the continued interest and leadership which they have focused on this very pivotal provision.

The Clean Water Act called for a 12-month study, to be accompanied by recommendations, and an 18-month moratorium on collection of ICR payments. Theoretically, the Congress would have had 6 months to act on the analysis and recommendations developed by EPA. To date—almost a full year after the study was due—the Congress has yet to receive any recommendations on future imposition of ICR payments. At this point in time, even if proposals were immediately sent to Congress, it would be impossible for the matter to be resolved by the end of this session.

In order to assure that there is no disruption in the construction grants program while recommendations are developed by EPA and submitted to Congress, S. 901 would extend the moratorium for 1 full year—from June 30, 1979, to June 30, 1980. It is expected that EPA will submit its proposals on future implementation of the ICR requirement to Congress in January 1980. It is expected that these recommendations will be developed in close cooperation with the committee. In this way, when Congress is back in session, we will be able to substantively resolve this matter.

Mr. Speaker, I urge enactment of this necessary legislation.●

A motion to reconsider was laid on the table.

## SENATE DEBATE ON S. 901

*November 30, 1979*
(Congressional Record, vol. 125, part 26, 34272)

### EXTENSION OF MORATORIUM ON INDUSTRIAL COST RECOVERY

**Mr. MUSKIE.** Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 901.

**The PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from Senate (S. 901) entitled "An Act to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610)", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.

(c) The amendments made by subsections (a) and (b) of this section shall take effect on June 30, 1979.

Amend the title so as to read: "An Act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery.".

UP AMENDMENT NO. 856

**Mr. MUSKIE.** Mr. President, I move that the Senate concur in the amendments of the House to S. 901 with an amendment, which I send to the desk.

**The PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) proposes an unprinted amendment numbered 856.

**Mr. MUSKIE.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause, and insert in lieu thereof:

That (a) subsection (b) of section 15 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "eighteen-month" each place it appears and inserting in lieu thereof in each place "thirty-month".

(c) The amendments made by subsections (a) and (b) of this section shall take effect as of June 30, 1979.

**Mr. MUSKIE.** Mr. President, this bill will amend the Clean Water Act to provide for a continued moratorium on the collection of industrial cost recovery payments to the Treasury until June 30, 1980. The statutory moratorium (enacted in 1977 under Public Law 95-217) expired on June 30, 1979. The Environmental Protection Agency administratively extended the moratorium until December 1, 1979, in the hopes that Congress would complete action on S. 901 prior to that time.

Should this extended moratorium expire without further congressional action, all industries should be prepared to commence industrial cost recovery payments. The Agency, all grantees, and all industries involved must clearly understand that actions must be taken to be capable of fully implementing the industrial cost recovery requirements on July 1, 1980. The extension of the moratorium in no way indicates that the law will necessarily be altered.

Mr. President, the House and Senate had approved different time frames for the moratoriums. We have now agreed to the Senate formula and we expect next year to be working on this policy issue. Whether or not we can resolve it in some other way, time alone will tell. But, in the meantime, this moratorium lifts the burden and the uncertainty from the backs of industries which are subject to the requirement.

Mr. President, I yield to my good friend from Vermont (Mr. STAFFORD).

**Mr. STAFFORD.** Mr. President, very briefly, I simply wish to say that I concur in the statements and recommendations which have been made by the distinguished Senator from Maine.

**The PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Maine (Mr. MUSKIE).

The motion was agreed to.

**Mr. MUSKIE.** Mr. President, I move to reconsider the vote by which the motion was agreed to.

**Mr. STAFFORD.** I move to lay that motion on the table.

**The PRESIDING OFFICER.** Without objection, the motion to lay on the table is agreed to.

**Mr. MUSKIE.** Mr. President, does that complete action on the bill?

**The PRESIDING OFFICER.** The Senator is correct.

**Mr. MUSKIE.** Mr. President, I yield back the remainder of my time.

**The PRESIDING OFFICER.** The Chair recognizes the majority leader.

**Mr. ROBERT C. BYRD.** Mr. President, there will be no more rollcall votes today. I say that for the information of the Senators.

# HOUSE DEBATE ON H.R. 4023

*June 26, 1979*
(Congressional Record, vol. 125, part 13, 16620-16623)

## CLEAN WATER ACT OF 1977 AMENDMENTS

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4023) to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I just do so to assume that the gentleman from Texas (Mr. ROBERTS) will be explaining the bill and I will be able to respond to that.

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, I rise in support of H.R. 4023.

**H.R. 4023 amends section 75 of the Federal Water Pollution Control Act Amendments of 1977 and extends for 2 years the moratorium on collecting industrial cost recovery payments.**

**In the 1977 act, the House sponsored a provision which calls for a 12-month study by the Environmental Protection Agency (EPA) of the efficiency of, and the need for, industrial cost recovery (ICR) payments. The study was to include, but not be limited to, an analysis of such payments on rural communities** and on industries in economically distressed areas or in areas of high unemployment.

The House gave very specific directions as to what the study should encompass. Nine questions were to be addressed.

First. Whether the industrial cost recovery program (ICR) discriminates against particular industries or industrial plants in different locations, and do small town businesses pay more than their urban counterparts? What is the combined impact on such industries of the user charge and ICR requirements?

Second. Whether the ICR program and resultant user charges cause some communities to charge much higher costs for wastewater treatment than other communities in the same geographical area? (Some communities have indicated that disparities in ICR and user charges affect employment opportunities.) Whether a mechanism should be provided whereby a community may lower its user and ICR charges to a level that is competitive with other communities in order to restore parity?

Third. Whether the ICR program drives industries out of municipal systems, the extent and the community impact?

Fourth. Whether industries tying into municipal systems pay more or less for pollution control than direct dischargers?

Fifth. Whether the ICR program encourages conservation. The extent and the economic or environmental impact?

Sixth. Whether the ICR program encourages cost effective solutions to water pollution problems?

Seventh. How much revenue will this program produce for local, State, and Federal governments, and to what use will or should these revenues be put?

Eighth. Determination of the administrative costs of this program. Additional billing costs imposed, costs associated with the monitoring in industrial effluent for the purpose of calculating the ICR charges, ancillary benefits associated with the monitoring of industrial effluent, procedures necessary to take account of changes in the number of industries discharging into municipal plants, and the impacts of seasonal or other changes in the characteristics and quantity of effluents discharged by individual industries?

Ninth. Whether small industries should be exempted from ICR? How should small be defined? Is there a reasonable floor that can be established for ICR based upon percentage flow?

In January 1979 the study was submitted to Congress. The major finding of the contractor was that ICR is ineffective in achieving its legislative purposes.

The significant findings of the contractor include:

Changes in the tax law mooted the question of the construction grant program being a subsidy to industries that participate in municipal treatment works;

User charges have had a more significant impact on water conservation practices than industrial cost recovery;

ICR has been an administrative burden for both EPA and municipalities;

ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR.

On the basis of this information, it was expected that EPA would develop recommendations as to legislative alternatives to ICR, including whether the provisions should be repealed. However, EPA decided not to endorse the contractor's recommendations and stated they would prepare a separate analysis of alternatives and recommendations. Such a package has yet to be received by the committee.

It is expected that EPA will move immediately to develop such recommendations and alternatives, taking into account, among many other things:

An analysis of the impact of Federal tax laws on an industry's decision to discharge either directly or as part of a municipal system;

The combined impact of pretreatment costs and requirements, user charges, and industrial cost recovery on an industry's decision to join a municipal waste treatment works;

The net effect of amendments contained in the Federal Water Pollution Control Act Amendments of 1977: The provision allowing municipalities to modify an industry's pretreatment requirements and the provision allowing EPA to exempt from industrial cost recovery any industrial user with a flow equivalent to 25,000 gallons or less per day of sanitary waste;

The impact of abolishing ICR altogether; and

The total amount of money which can be expected to be collected through the implementation of ICR when compared with the costs of administering the system.

Section 204(b)(1) of the act requires grantees with industry tie-ins to develop an approvable industrial cost recovery system as a condition of the grant award. This condition is not affected during the time of the moratorium. However, the Administrator is expected to continue to make grants and not to withhold any funding. According to EPA regulations, EPA cannot pay more than 50 percent of the Federal grant unless the grantee has submitted adequate evidence of timely development of its system, nor more than 80 percent of such grant unless the regional administrator has approved the system. It is expected that EPA will continue this policy until either the moratorium ends or Congress legislates on ICR, whichever occurs first.

Mr. Speaker, the Subcommittee on Water Resources held a full day of hearings on this matter. We heard from the Environmental Protection Agency and representatives of industry, cities, States, and environmental groups. All witnesses unanimously supported the need to extend the moratorium on industrial cost recovery.

I urge the enactment of this necessary legislation.

Mr. CLAUSEN. Further reserving the right to object, Mr. Speaker, I rise in support of H.R. 4023 which, as the gentleman from Texas has already explained, extends the current moratorium on the implementation of the industrial cost recovery requirements at the Federal Water Pollution Control Act for 2 additional years.

As the original author of the amendment to the 1977 Clean Water Act which imposed the moratorium and called for a study on the need for, and utility of, the ICR requirement, I am most disappointed over the execution of this study by EPA. It was my intent that the agency would provide Congress with recommendations which would become the basis for further legislative action. Instead, Congress must now develop their own record and, in essence, conduct their own study because of EPA's failure to favor us with a recommendation.

It is my understanding that the contractor which carried out this study for the agency did make specific recommendations and included as their No. 1 recommendation the possible repeal of the ICR requirement. The reasons for this recommendation were:

Changes in the tax laws have largely mooted the question of the construction grants program being a subsidy to industries utilizing publicly owned treatment works.

ICR has had only a minor impact upon water conservation, when compared to the effects of proportionate user charges. In most cases, ICR has had an insignificant impact on industrial decisionmaking.

ICR has been extremely difficult to manage for both grantees and EPA, and will continue to be a resource intensive activity if ICR is continued. ICR tends to be more of a managerial burden in small communities than in large communities.

The exemption for industries with flows of 25,000 gallons or less per day makes the program somewhat more manageable for grantees, but is inequitable because many industries are exempted from ICR based only on size.

With the exception of small communities with very large industrial flows, ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR.

ICR is a 30-year program after the construction is completed. During this period, the industrial payment recovered to the U.S. Treasury is estimated to be $30 million per year.

The user charge system is effective in accomplishing the bulk of the aims of ICR, especially on inducing waste reduction or water conservation.

I would also like to mention one other point. A number of the witnesses that came before the Subcommittee on Water Resources noted that the moratorium, as implemented by EPA, does not obviate the requirement of municipalities to develop an ICR system during the period of the moratorium. Since the development of the ICR is grant eligible we may be faced with a situation where funds are extended to attempt to develop a system and then Congress at a later date abolishes ICR. Therefore, there is a real possibility of wasting the money expended for this effort. When the Assistant Administrator, Tom Jorling, testified on behalf of EPA, he stated, and I quote:

> Before I conclude, I would like to clarify one point, H.R. 4023 extends by two years the moratorium on Federal collection of ICR payments. We assume it is also intended that the agency extend by two years the date by which grantees are required to have an approved ICR system.

In addition, my good friend and colleague, the gentleman from Ohio (Mr. Harsha) while questioning Mr. Jorling raised this issue specifically, and Mr.

Jorling indicated that he felt the agency had sufficient discretionary authority to resolve this problem.

Since the statute does not specifically preclude EPA from imposing a moratorium on the development of the ICR system, as well as on the repayment requirements, it is expected that the Agency will use its authority to suspend the mandate to develop an ICR system.

Mr. Speaker, I feel it is unfortunate that we are not able to resolve the ICR problem at this time. However, given the failure of the Agency to respond to the Congressional mandate and the fact that we must now develop our own record, I support the moratorium extension in light of the time deadline of June 30 which is facing us.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

### H.R. 4023

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.

### COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike all after the enacting clause and insert:

That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.

(c) The amendments made by subsections (a) and (b) of this section shall take effect on June 30, 1979.

The committee amendment was agreed to.

● Mrs. HECKLER. Mr. Speaker, few Federal programs have as great an impact on the jobs picture in my congressional district as the industrial cost recovery charge addressed in H.R. 4023 before the House today. Levied on industrial users of publicly owned wastewater treatment works, this powerful charge has discouraged industrial expansion and even played a part in the closure of two textile plants employing over 400 people in the largest city in my congressional district.

Two and one half years ago I began meeting with Massachusetts officials to discuss the charge and its effect on the local economy. As enacted, ICR required the collection of payments from industrial users of POTW for their proportionate share of construction costs. I emphasize that the ICR charge is in addition to operation and maintenance (user) charges. Its devastating effect on the area's economic health coupled with a complete lack of benefit lead me to introduce legislation to eliminate the charge. That was in February of 1977. Nearly a year later the Congress enacted the Clean Water Act of 1977 which placed a moratorium on the collection of the ICR payments and mandated a year long study of the need for and efficiency of ICR. That action had my active support and participation.

The extensive ICR study, performed by the distinguished accounting firm of Coopers & Lybrand, not only found that the charge failed to accomplish its legislative intent but concluded that the charge should be eliminated. The evidence was drawn from 10 regional hearings, an ICR advisory board composed of environmental, governmental and industry representatives, and surveys of 227 municipalities.

The original report conclusion: "Eliminate the Industrial Cost Recovery provisions of Public Law 92-500." Yet, EPA ignored the recommendation, left the evidence intact, changed the conclusion and forwarded the report to Congress. EPA's rewritten version stated that the program was "not effective in accomplishing their legislative purposes." The omission of the Coopers & Lybrand conclusion that the charge be eliminated was obvious. Many months later EPA recommended that the moratorium be extended another 2 years. In short, I have found EPA's role to be counterproductive at best.

Due to the approaching end of the 18 month moratorium, Congress is compelled to act to prevent collection of charges after July 1, 1979. I am disappointed that our only option is to vote to extend the moratorium for 2 more years. I feel the evidence is clear that the charge should be eliminated. However, in the absence of that, I favor the 2-year moratorium, for that time period will give EPA sufficient time to consider the charge and its effect in addition to making timely legislative recommendations to the Congress. Congress will be able to act based on an objective analysis of the charge rather than be forced by the calendar.

In closing, Mr. Speaker, I applaud the leadership shown by the House Public Works Committee, its distinguished chairman, Congressman JOHNSON, and the gentleman from California, (Mr. CLAUSEN). Their untiring efforts have been instrumental in bringing this legislation to the House floor today.●

● Mr. SYMMS. Mr. Speaker, today we have an opportunity to reduce some of the Federal redtape by placing a 2-year moratorium on the Industrial Costs Recovery Act, as suggested by the Environmental Protection Agency.

In 1972, the Congress passed the Federal Water Pollution Act and introduced the requirement that industrial users of publicly owned sewage treatment plants pay local municipalities for the use of those plants. And, while the intent of Congress may have been honorable in trying to lessen the burden that is imposed on the individual user, the results, as is often the case, were disastrous.

During the ensuing years, local municipalities were terribly burdened by the excess paperwork that was caused by this law. It seemed that the cost of implementing and maintaining the requirements of the law far outweighed any benefit that may have been anticipated.

Consequently, in the 1977 Clean Water Act, a moratorium was placed on the collection of ICR payments and that an independent study be done to determine if the ICR was really needed.

The firm of Coopers & Lybrand performed the study and they basically found that the ICR was not accomplishing its objectives and that, as suspected, the costs outweighed any benefits.

As a result, the Environmental Protection Agency has requested an extension of the 1977 moratorium for 2 years to allow it to develop the appropriate legislative recommendations. It is apparent that if we do not again impose this moratorium we will be doing a disservice to the already overburdened and overregulated taxpayer.

I commend the committee for their work on this problem and thank them for their cooperation, which will help my constituents.●

● Mr. HARSHA. Mr. Speaker, the minority has no objection to the passage of H.R. 4023 which is, as already stated, to extend the moratorium on industrial cost recovery for 2 additional years. It is our hope that the differences with the Senate can be worked out quickly so that the deadline of June 30, when the current moratorium ends, will not pass without congressional action.

The gentleman from California (Mr. CLAUSEN) and the gentleman from Texas (Mr. ROBERTS) have already expressed the committee's displeasure over the handling of the industrial cost recovery study by the Environmental Protection Agency and I will not say anything further on that matter except that I support and concur in their statements.

One point that I would like to bring to the attention of the House is the impact of the moratorium on the requirement that grantees develop an approved ICR system. The statute enacting the moratorium is silent on this point. Additionally, it makes no sense for municipalities to be required to develop an industrial cost recovery system, which requires significant expenditures of money, when Congress may abolish this requirement at the end of this moratorium extension. These funds would be wasted if Congress adopted this change. EPA, in interpreting the impact of H.R. 4023 on the requirement to develop an approved industrial cost recovery system, stated:

> We assume it is also intended (by H.R. 4023) that the Agency extend by two years the date by which grantees are required to have an approved ICR system.

When questioned during the hearings on this point Mr. Jorling, the EPA witness, further buttressed this interpretation and I would like to include at this point in the RECORD the question and response:

> Mr. HARSHA. Given the difficulty with the ICR and the inability of some municipalities to have one far enough along for you to approve or disapprove, and your problem with personnel; and you also indicate somewhere in your statement, I believe, that you plan on having to reduce your personnel by some 25–40 positions, because of lack of appropriations: Why would you insist on enforcing this particular section?
>
> Mr. JORLING. As of that date, it no longer becomes a discretionary matter with the Agency. It becomes a grant requirement, and that would be an unlawful grant if we made it, and therefore, we would be vulnerable to lots of other sanctions on ourselves.
>
> The point that we were making is that during this period of the moratorium, neither the applicants, the engineers, nor ourselves have been spending our scarce resources in working out those approvable plans.
>
> It takes resource allocation to go back to the community to work with them, work in the community, work with the engineers, to come up with a provable plan.
>
> That is where our weakness has been during this moratorium.
>
> Mr. HARSHA. Should this committee, and ultimately the Congress as a whole, pass this legislation, giving a two-year extension, there is no relief provided for the requirement to develop a system, even though we give you an extension and give you discretion to fund the project without a system, would you support an amendment which would also place a moratorium on this requirement to develop a system?
>
> Mr. JORLING. As I point out in my prepared remarks, we interpret that extension to include the requirement to have as a condition of the grant award, the moratorium and use pretty much the existing system of looking at it at 50 and 80 percent.
>
> Once we have the moratorium, we believe we can use our deviation authority to make exceptions, so without that minimal relief, we would suffer considerable pain in the system and the obligation rates would fall rather seriously.
>
> So it would be nice to have that clear. But we still think we could work within it, if the moratorium is extended.

These interpretations are exactly what is intended by H.R. 4023, and the agency is expected to adhere to this interpretation in implementing this extension.

Mr. Speaker, I support H.R. 4023 as reported by the Committee on Public Works and Transportation and I urge its adoption by the House.●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 4023. This bill amends the Clean Water Act of 1977 to extend the moratorium on collecting industrial cost recovery payments.

I congratulate the chairman of the Subcommittee on Water Resources, Congressman RAY ROBERTS of Texas, and the ranking minority member of the subcommittee, Congressman DON CLAUSEN of California, on the continued interest they have focussed on this very pivotal provision.

The industrial cost recovery (ICR) provision is contained in section 204 (b)(1) of the Federal Water Pollution Control Act Amendments of 1972. This section provides that industries which participate in municipal waste treatment works which receive construction grant assistance under the Act must pay back their proportionate share of the Federal grant in the form of industrial cost recovery (ICR) payments. Such payments are to be made by the industry over a 30-year period with no assessment of interest. These payments were thought of as non-interest-bearing loans to industry which would act as a powerful financial incentive to industry to join in a publicly owned treatment works.

As the 1972 amendments were implemented and more and more cities and industries were forced to develop ICR agreements and administrative systems, there were many complaints. Industry claimed that the additional cost of ICR was driving them away from regional publicly owned waste treatment plants to direct discharges. Industry which was already discharging into municipal plants claimed that ICR acted as a penalty which in some cases caused them to shut down and to relocate. Municipalities reported that the mechanism required to assess and collect ICR charges was so burdensome that administrative costs exceeded the moneys recovered.

It was these reports which led the Congress to impose the moratorium and to call for an EPA study. In January 1979, the study was sent to Congress. It did not contain any analysis of legislative recommendations or alternatives. Such analysis is a vital component of Congress' substantive review of ICR.

A deadline is now upon us—the moratorium ends on June 30. If there is no legislative action by the end of this month, all industries which discharge into municipal waste treatment works which were federally funded must begin making industrial cost recovery payments. We are most concerned about the impact that this would have on all affected cities and industry, especially since Congress has not had an opportunity to examine any EPA recommendations.

H.R. 4023 would extend the moratorium for 2 years. This is sufficient time for EPA to do a thorough study of alternative approaches to ICR and to develop legislative recommendations. It is expected that this will be done in close cooperation with the committee.

Mr. Speaker, I urge enactment of this important legislation.●

● Mr. PASHAYAN. Mr. Speaker, I rise in support of H.R. 4023 and applaud this fine effort by the Honorable Harold T. (Bizz) Johnson, the distinguished chairman of the Committee on Public Works and Transportation, and Mr. Don Clausen of California, as well as the Honorable Ray Roberts of Texas, chairman of the Subcommittee on Water Resources.

The 2-year extension provided for by this bill should provide the Environmental Protection Agency with the necessary time to do a proper job, and one which will be done in response to congressional directive.

That the Committee on Public Works and Transportation has recognized some of the inherent problems with full implementation of the industrial cost recovery (ICR) programs at this time leads me to believe that it is an issue we must review most carefully.

As my district contains many small communities in an area of a State facing water problems, I feel it absolutely necessary that we have the additional 2 years for study.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ROBERTS. Mr. Speaker, I call up a similar Senate bill (S. 901) to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610), and ask unanimous consent for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 901

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby amended by striking out "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".

(b) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby amended by striking out "eighteen-month" each time these words appear and inserting in lieu thereof each time the words "thirty-month".

MOTION OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roberts moves to strike all after the enacting clause of the Senate bill, S. 901, and to insert in lieu thereof the provisions of H.R. 4023, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 4023, was laid on the table.

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
*1st Session* } { No. 96-305

# INDUSTRIAL COST RECOVERY MORATORIUM

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JUNE 25, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JOHNSON of California, from the Committee on Public Works and Transportation, submitted the following

# REPORT

[To accompany H.R. 4023]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 4023) to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.

(c) The amendments made by subsections (a) and (b) of this section shall take effect on June 30, 1979.

## GENERAL STATEMENT

H.R. 4023, as reported, amends section 75 of the Clean Water Act to provide an additional two-year moratorium on the collection of industrial cost recovery payments.

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) authorized the Environmental Protection Agency (EPA) to make grants to municipalities for 75 percent of the eligible costs to construct publicly owned waste treatment works. Section 204 (b) of the Act provides that industries which participate in municipal waste treatment works which receive construction grant assistance under the Act must pay back their proportionate share of the Federal grant in the form of industrial cost recovery (ICR) payments. Such payments are to be made by the industry over a thirty-year period.

The ICR provision was based on a concern that the taxpayer not subsidize industrial waste treatment and that the Federal policy not be the source of a competitive disadvantage between direct dischargers and those which utilize municipal waste treatment systems. It was thought that ICR payments would constitute non-interest-bearing loans to industry.

As EPA progressed with the implementation of ICR, there were increasing complaints from industries that the additional cost was driving them away from regional publicly owned waste treatment plants to direct discharges. Industry in highly-developed areas which were already discharging into municipal plants—because they lacked any alternative to do their own treatment—claimed that ICR acted as a penalty which in some cases caused them to shut down and relocate. In addition, municipalities reported that the mechanism required to assess and collect ICR charges was so burdensome that administrative costs exceeded the monies recovered.

The Committee heard these reports and became increasingly concerned about the impact of ICR. Therefore, in the Clean Water Act of 1977 a provision was developed which called for EPA to submit to Congress by December 1978 a study of the efficiency of and the need for ICR. Such study was to include an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment.

Specifically, the study was to address—

First. Whether the Industrial Cost Recovery program (ICR) discriminates against particular industries or industrial plants in different locations, and do small town businesses pay more than their urban counterparts? What is the combined impact on such industries of the user charge and ICR requirements?

Second. Whether the ICR program and resultant user charges cause some communities to charge much higher costs for wastewater treatment than other communities in the same geographical area? (Some communities have indicated that disparities in ICR and user charges affect employment opportunities.) Whether a mechanism should be provided whereby a community may lower its user and ICR charges to a level that is competitive with other communities in order to restore parity?

Third. Whether the ICR program drives industries out of municipal systems, the extent and the community impact?

Fourth. Whether industries tying into municipal systems pay more or less for pollution control than direct dischargers?

Fifth. Whether the ICR program encourages conservation, the extent and the economic or environmental impact?

Sixth. Whether the ICR program encourages cost effective solutions to water pollution problems?

Seventh. How much revenue will this program produce for local, State and Federal governments, and to what use will or should these revenues be put?

Eighth. Determination of the administrative costs of this program, additional billing costs imposed, costs associated with the monitoring of industrial effluent for the purpose of calculating the ICR charges, ancillary benefits associated with the monitoring of industrial effluent, procedures necessary to take account of changes in the number of industries discharging into municipal plants, and the impacts of seasonal or other changes in the characteristics and quantity of effluent discharged by individual industries?

Ninth. Whether small industries should be exempted from ICR? How should small be defined? Is there a reasonable floor that can be established for ICR based upon percentage flow?

On the basis of this information, it was expected that EPA would develop recommendations as to legislative alternatives to industrial cost recovery, including whether the provision should be repealed.

In January 1979, the study was transmitted to Congress. The study concluded that industrial cost recovery provisions of section 204(b)(1) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) are not effective in accomplishing their legislative purposes.

The significant findings of the contractor include:

Changes in the tax laws have largely mooted the question of the Construction Grants program being a subsidy to industries utilizing publicly owned treatment works.

ICR has had only a minor impact upon water conservation, when compared to the effects of proportionate user charges. In most cases, ICR has had an insignificant impact on industrial decision-making.

ICR has been extremely difficult to manage for both grantees and EPA, and will continue to be a resource intensive activity if ICR is continued. ICR tends to be more of a managerial burden in small communities than in large communities.

The exemption for industries with flows of 25,000 gallons or less per day makes the program somewhat more manageable for grantees, but is inequitable because many industries are exempted from ICR based only on size.

With the exception of small communities with very large industrial flows, ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR.

ICR is a 30-year program after the construction is completed. During this period, the industrial payment recovered to the U.S. Treasury is estimated to be $30 million per year.

The user charge system is effective in accomplishing the bulk of the aims of ICR, especially on inducing waste reduction or water conservation.

However, EPA qualified the contractor's conclusions by stating that the study took place early in the actual implementation of the ICR program, and that there was only a limited quantity of actual data available. Therefore, EPA declined to endorse the contractor's recommendations and stated they would be preparing their own legislative package. Committee has yet to receive such a package.

The Committee expects that EPA, at a minimum, will move immediately to develop alternatives and its recommendations, taking into account, among other things:

An assessment of the impact of tax laws on an industry's decision to discharge directly or as part of a municipal system;

The combined impact of pretreatment costs and requirements, user charges, and industrial cost recovery on industry's joining a treatment system;

The net effect of amendments contained in the Federal Water Pollution Control Act Amendments of 1977: the provision allowing municipalities to modify an industry's pretreatment requirements and the provision allowing EPA to exempt from industrial cost recovery any industrial user with a flow equivalent to 25,000 gallons or less per day of sanitary waste;

The impact of abolishing ICR altogether; and

The total amount of money which can be expected to be collected through the implementation of ICR compared with the cost of collecting these revenues.

Even though 75 percent of the costs of developing an ICR system are grant eligible, it is still burdensome for municipalities. Numerable costs and responsibilities are involved in developing an ICR system. For example, the grantee must identify industrial users, develop a plan for monitoring industrial discharges, develop a plan for assessing and collecting ICR charges, develop an accounting system to record ICR costs and ICR payments from industry, obtain agreements from member jurisdictions in a metropolitan sanitation district to charge ICR where appropriate, and obtain system approval from EPA.

## COMPLIANCE WITH CLAUSE 2(l) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, no separate hearings were held on the subject matter of this legislation by the Subcommittee on oversight and Review. However, the Subcommittee on Water Resources held hearings on this subject matter which resulted in the reported bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the House of Representatives the bill, as reported, does not provide new budget authority or increased tax expenditures. Accordingly, a statement pursuant to section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the committee has received on estimate and comparison by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act. The report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., June 22, 1979.*

Hon. HAROLD T. JOHNSON,
*Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4023, a bill to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery, as ordered reported by the House Committee on Public Works and Transportation, June 21, 1979.

The moratorium temporarily exempts local industries from paying to the grantee their share of the cost of constructing a wastewater treatment facility. The bill extends the moratorium until June 30, 1981. It is expected that no additional cost to the government will be incurred as a result of enactment of this bill.

Sincerely,

Alice M. Rivlin, *Director*.

(4) With reference to clauses 2(l)(4) of rule XI of the Rules of the House of Representatives, the enactment of this legislation will have no inflationary impact on prices and costs in the operation of the national economy.

## Cost of the Legislation

Rule XIII(7) of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 4023, as reported, in fiscal years 1979 and each of the following years.

| Fisal year: | |
|---|---|
| 1979 | None. |
| 1980 | None. |
| 1981 | None. |
| 1982 | None. |
| 1983 | None. |
| 1984 | None. |

## Vote

The committee, in compliance with rule XI(2)(l)(2)(A), the majority of the committee having actually been present, reports favorably the bill H.R. 4023. The committee ordered the bill reported by voice vote.

## Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## Section 75 of the Clean Water Act of 1977

### COST RECOVERY STUDY

Sec. 75. (a) The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction. Such study shall include, but not be limited to, an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment. No later than the last day of the twelfth month which begins after the date of enactment of this section, the Administrator shall submit a report to the Congress setting forth the results of such study.

(b) During the period beginning on the date of enactment of this section and ending on the last day of the [eighteenth month] *forty-second month* which begins after the date of enactment of this section (both dates inclusive), no officer or employee of the Federal Government shall enforce, or require any recipient of a grant under section 201(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1284) to enforce, any provision in an application for a grant or in a grant agreement under such section which requires any payments by industrial users pursuant to section 204(b)(1)(B) of such Act.

(c) For purposes of this section, the terms "industrial user" and "treatment works" have the same meaning given such terms in the Federal Water Pollution Control Act.

(d) Any payment by an industrial user which, but for subsection (b) of this section, was due and payable during the [eighteen-month period] *forty-second month* described in such subsection shall after such [eighteen-month period] *forty-second month* be paid in accordance with the applicable provisions of the Federal Water Pollution Control Act in equal annual installments prorated over the remaining useful life of the treatment works with respect to which they are required to be paid.

I

## Union Calendar No. 182

96TH CONGRESS
1ST SESSION

# H. R. 4023

**[Report No. 96–305]**

To amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery.

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IN THE HOUSE OF REPRESENTATIVES

MAY 9, 1979

Mr. ROBERTS (for himself, Mr. JOHNSON of California, and Mr. CLAUSEN) introduced the following bill; which was referred to the Committee on Public Works and Transportation

JUNE 25, 1979

Additional sponsors: Mr. HAGEDORN and Mr. HARSHA

JUNE 25, 1979

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

~~That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".~~

~~(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.~~

*That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".*

*(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.*

*(c) The amendments made by subsections (a) and (b) of this section shall take effect on June 30, 1979.*

# SENATE DEBATE ON S. 901

*June 14, 1979*
(Congressional Record, vol. 125, part 12, 14815-14818)

## INDUSTRIAL COST RECOVERY

The Senate proceeded to consider the bill (S. 901) to amend section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes, which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert the following:

That (a) section 70(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby amended by striking out "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".

(b) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby amended by striking out "eighteen-month" each time these words appear and inserting in lieu thereof each time the words "thirty-month".

● Mr. MUSKIE. Mr. President, S. 901 would amend the Clean Water Act to continue the existing moratorium on industrial cost recovery payments to the Treasury until June 30, 1980.

In the 1972 Federal Water Pollution Control Act Amendments, Congress included the industrial cost recovery provision to assure that industrial participants in municipal treatment plans repaid the share of the Federal construction cost attributable to the treatment of their industrial wastes. In this way, the Federal Government would not be subsidizing capital construction costs for industrial waste treatment through the water pollution control program.

In the 1977 Clean Water Act Amendments, the Congress believed that it was necessary to mandate a moratorium on industrial cost recovery payments to the Treasury, so that the Environmental Protection Agency could conduct a study of the efficiency of and need for such a provision. The Congress required that the study include an analysis of the impact of industrial cost recovery on rural communities and on industries in economically distressed areas or areas of high unemployment.

Industrial cost recovery payments to the Treasury will resume at the end of the 18-month moratorium, if the Congress does not change the law. The moratorium expires on June 30, 1979.

To fulfill the requirements of the 1977 amendments, the Environmental Protection Agency contracted with Coopers and Lybrand, a Washington, D.C., consulting firm, to examine issues associated with the industrial cost recovery provision. The report was submitted to the Congress by Douglas Costle, the Administrator of the Environmental Protection Agency, January 25, 1979.

While the report raises many questions, it cannot yet serve as the basis for final legislation. In light of the concerns raised by that report, and the fact that the moratorium deadline is near, it is necessary to extend the moratorium. This will give the Congress time to fully assess the study, the impact of industrial cost recovery, and develop further information necessary to make a decision on the efficacy of the provision.

Many unanswered questions follow from the statements made in the report Some of these lead to questions about the validity of some of the findings in the report. The Senate Public Works Committee estimated in 1972 that half of the then authorized $18 billion in construction grants would be for industrial waste treatment. The Coopers-Lybrand study more or less confirmed that 50 percent estimate. The report claims that 55 percent of waste water revenues come from the nonresidential sector.

If this is accurate, then it would be logical to expect that a high proportion of the nearly $45 billion currently authorized Federal investment in pollution control facilities would be recovered under the industrial cost recovery provision. Yet the study estimates that only $1.8 billion will be collected, of which less than $1 billion will be returned to the Federal Treasury. There is inadequate explanation of the gap between these figures. How much of this nonrecovery of capital costs is due to failure to comply with the law in the grant approval process?

The Environmental Protection Agency has provided a lower estimate of the percentage of industrial use of municipal systems, based on its 1978 needs survey. The question of whether such different views on a fundamental issue undermine other conclusions reached in the report needs a thorough investigation.

The report predicts that many industries in the future are likely to choose to build their own treatment systems rather than join a municipal system. The principal reason given is the economic effect of tax code changes that have occurred. Yet, it would appear that there are many industries that would have difficulty in raising the capital to build a separate treatment system, or might not have profits large enough to take advantage of the new tax provisions, or might be limited by the physical location of the plant.

Because the findings of the report rest in a significant way on estimates of future behavior based on projections on very limited data, it is important to provide adequate answers to questions that flow from this initial report.

Thus, further information will prove helpful to the committee in evaluating industrial cost recovery and possible alternatives. This is in recognition of the fact that the legislative purposes stated in 1972 are good objectives.

The most absurd aspect of the Coopers and Lybrand study is the comments indicating that recovering the Federal subsidy to industry was somehow not important or worth the effort. I cannot imagine that recovering approximately $10 billion could not be important to the Federal Treasury. Or that an additional $10 billion recovered by local governments would not be important to them. We are in a period when the Federal budget is very tight. Pressures are strong to balance the budget. Billions of dollars, even if they are scattered over a number of years, are an important contribution to the Federal Treasury. There is no real evidence that this industrial cost recovery program cannot work—only evidence that so far, few people have tried to make it work.

The Environmental Protection Agency is instructed to further examine the industrial cost recovery provision and issues related to its implementation. Such analysis should take into account the desirability of industries joining municipal treatment works. The Agency should be ready to come forward with legislative recommendations regarding industrial cost recovery by October 1, 1979.

The Agency should be ready to present those views in a hearing later this year. The study to be conducted by the Environmental Protection Agency should be undertaken with close consultation with the committee. Any further action deemed necessary would be taken at this time.

The Agency, all grantees, and all industries involved must clearly understand that actions must be taken to be capable of fully implementing the industrial cost recovery requirements on July 1, 1980. The extension of the current moratorium in no way indicates that the law will necessarily be altered.●

Mr. CHAFEE. Mr. President, the moratorium which Congress set on the industrial cost recovery provision in the 1977 Clean Water Amendments ends in 2 weeks—June 30, 1979. S. 901, which was unanimously approved in the Environment and Public Works Committee, mandates that the moratorium be extended through June 30, 1980, because a great deal of evidence on the shortcomings of the provision has been discovered. To allow the industrial cost recovery requirement to go back into effect, in light of such evidence, is not sound policy. I am pleased to have introduced S. 901 and look forward to continued work in the committee and the Senate on the ICR issue. But let me go back and provide some information on what the ICR issue is all about.

ICR was originally enacted in the 1972 clean water legislation. The provision requires that industrial users of a municipal sewage plant pay for that portion of the Federal share of the plant's construction costs which is attributable to the treatment of industrial wastes. The administrative burden falls on the towns and cities who must collect these charges, and on the Environmental Protection Agency who must monitor each treatment plant situation for the 30-year ICR payment period.

In the Clean Water Amendments of 1977 Congress mandated an 18-month moratorium on ICR and a 12-month study of ICR and its effects. As a conferee on the 1977 amendments, I felt that we needed to take a long look at industrial cost recovery. Thus, I am pleased that the conferees on the amendments adopted and the Congress affirmed the decision to mandate the moratorium and the study.

The EPA sent its report to the Congress in late January of this year; 227 sanitary agencies and 394 industrial plants had been contacted throughout the country, to discover the impact of ICR on communities and industries in both rural areas and economically distressed or high unemployment regions. This is the charter we gave the EPA in our 1977 conference report.

Mr. President, I would also note that the EPA formed an industrial cost recovery advisory group, composed of approximately 40 individuals who represented a broad spectrum of viewpoints; 10 regional public hearings were held on draft report findings during the fall months of 1978. These regional meetings often included interview sessions with affected community officials, with regional EPA representatives present. Communities visited ranged in size from Ravenna, Nebr., and Woonsocket, R.I. to New York City. Although the total ICR amounts collected to date are not extremely large, several cities and towns have collected ICR and many more are on the verge of beginning collections. I know this to be the case because EPA has shared with me figures on collections in over 50 communities to date, not to mention those whose treatment plants are nearing completion.

What was the EPA finding in the January 1979 report? ICR is failing completely in accomplishing the purposes for which it was written. Let me quote from EPA Administrator Costle's letter of January 25, 1979, to Vice President MONDALE:

> The Environmental Protection Agency (EPA) is pleased to submit to the Congress its report on the study of the efficiency of, and the need for, Industrial Cost Recovery (ICR). This study and its report was directed by the Congress in Section 75 of the Clean Water Act of 1977 (Public Law 95-217). This study was conducted with the fullest public participation achieved to date by EPA in any major study. A broad spectrum of industrial, environmental, civic, and governmental organizations were actively and voluntarily involved in the decision-making process throughout the project.
>
> Based on the data available, the study concludes that the ICR provisions of Section 204(b)(1) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) are not effective in accomplishing their legislative purposes.

These purposes have been summarized as parity, water conservation, appropriate capacity, and self-sufficiency. Specifically, the report found that, first, industrial cost recovery funds returned to the grantee do not significantly contribute toward the grantees' capability to finance future expansion, upgrading or replacement of waste water treatment works; second, changes in the tax law and Internal Revenue Service regulations since 1972 have decreased the extent to which the construction grants program is likely to be used as a subsidy to industries utilizing publicly owned treatment works; third, that the substantial water conservation which has occurred among industrial users since the 1972 law was enacted is due to the proportionate user charge, rather than industrial cost recovery; and fourth, industrial cost recovery has had little apparent influence on industries' decisions regarding industrial capacity in a treatment works. I would like to comment on these findings in more detail.

Parity was an issue when ICR was originally enacted. Some people thought that industries hooking into a municipal treatment plant were getting a free ride without ICR. Yet, EPA has found that it is often less expensive for an industry to build its own treatment facility than to dispose its wastes into a municipal plant. Part of this is due to the fact that industry must pay operation and maintenance charges and pretreatment costs, as well as local debt service, for a public plant. Also, changes in the tax rate structure favor self-treatment. And, finally, industry pays Federal, State, and local taxes, just as do residential users of treatment plants. It is interesting to note that the 40 percent of ICR collections retained by a community, which it collects from industries, is to be used, under the law, for future expansion and reconstruction of the subject treatment plant—but there is no linking of the spending of this money to industry needs in particular. This is indeed astounding. All in all, the EPA Administrator concluded that the construction grant program does not provide a subsidy to industrial users.

Water conservation was another paramount goal of ICR. Yet, the cost recovery provision has had little effect on water conservation, when compared to the success achieved through proportionate user charges. The industrial plants surveyed reported an average reduction in water use of 29 percent, but they pointed to user charges and water rates as the impetus. ICR is not credited with encouraging water conservation. Precaution against overly excessive treatment plant capacity was still another reason given for the approval of ICR in 1972. A plant should be built with enough capacity to serve existing domestic, commercial, and industrial needs, with a sufficient capacity for projected growth in these three areas. Yet, the EPA study found that ICR did not affect decisions on sizing of plants or deter construction of excess capacity.

Actually, the EPA and communities appear to have tackled the capacity problem in other ways—for example, by use of the agency's cost-effectiveness guidelines. EPA has determined that reserve capacity for facilities should normally be 20 to 40 percent of design load, with more reserve needed in areas of unusually high growth. The study team found that the average plant has about 32 percent reserve capacity, which is within the range essential for cost effective design.

I should like to go into more detail on EPA's cost-effectiveness guidelines, as a method of capacity control. Appendix A of EPA's September 27, 1978, Federal Register publication of the construction grant regulations established EPA's cost-effectiveness guidelines.

Section 8 of this appendix is titled "Cost-Effective Staging and Sizing of Treatment Works." Subpart (d) is titled "Industrial Flows," and item (2) of this subpart reads as follows:

> 8. (d) (2) This additional allowance for future unplanned industrial flow shall not exceed 5 percent (or 10 percent for towns with less than 10,000 population) of the total design flow of the treatment works exclusive of the allowance or 25 percent of the total industrial flow (existing plus documented future) whichever is greater.

In other words, EPA will only fund the "cost-effective" portion of a public treatment works. For future industrial capacity, the "cost-effective" portion is generally limited to 5 percent of the total design flow.

Section 10 of the appendix is titled "Additional Capacity Beyond the Cost-Effective Capacity." Subpart (f) states:

> The grantee shall execute appropriate grant conditions or releases providing that the Federal Government is protected from any further claim by the grantee, the state or any other party for any of the costs of construction due to the additional capacity.

In other words, if a community decides that it wishes to build industrial treatment capacity greater than the "cost-effective" portion, then the community must insure that the Federal Government is protected from any responsibility. This is generally accomplished through the use of reserve capacity contracts with industrial users.

As for the self-sufficiency of municipalities in providing for their own sewage treatment needs, the EPA reported that the amount able to be retained by the grantees will not make a significant contribution toward their financial capability to meet the costs of future expansion and upgrading of their treatment works. This is especially true when you consider two things: First, while collecting ICR over a 30-year period, the grantee's administrative costs go up; second, inflation eats up part of what expansion work can be done with the dollars eventually collected.

In 1972, when ICR was originally enacted, potential dollar recovery was expected to be $4.5 to $7 billion. But now, based on assumed eventual grants, EPA says that the total ICR revenues may amount to considerably less—$1 to $2 billion over 30 years. By the time 50 percent is given back to the Federal Treasury and administrative costs are covered by the grantee-retained portion, there is little on which to base local government wastewater treatment self-sufficiency. We know what ICR amounts are estimated to be collected under plants to be done under the 1977 amendments and grant awards; $24 million per year spread around more than 5,000 grantees will not make these grantees self-sufficient in the future expansion and reconstruction of their treatment works. It was not difficult for EPA to make this prospective finding from its study results. Although some would state that nonresidential wastewater revenues were estimated to be quite high, it must be clarified that such revenue estimates are likely to include user charges collected from industry for operation and maintenance of treatment plants. Such user charges are responsible for greater revenues than ICR.

Mr. President, the administrative burden of collecting and policing the ICR charge becomes even more onerous in light of the reduced expectation of revenues to be received. These administrative costs keep going up during the 30-year collection period. The revenues to the Treasury and the 50 percent allowed to be kept by the grantee (40 percent of which must be held for future work) are not worth the administrative burdens to cities and towns. For example, Dallas officials have said, I believe, that it costs $1 to collect 50 cents.

There may not be a lot of horror stories about plant closures due to ICR, but what about the plants which do not expand in a town because of ICR? What about the plants which decide to go elsewhere in their decision on where to locate for the first time? Some communities have ICR, while others do not, because their plants were built before March 1973. So we are sometimes talking about a loss of potential jobs in a community, if that community must assess an ICR charge, because of construction grant expenditures after 1973. Further, although an industry or business may not identify ICR as the sole reason for a shutdown or move, I would submit that ICR is one of a combination of factors that can drag down a marginal business. For example, in its letter of May 8, 1979, to Senator MUSKIE, the Northern Textile Association stated:

> What we have done is cite some specific examples to give an idea of what wastewater treatment can cost the discharger to a publicly owned treatment works in the Northeast. Industrial Cost Recovery is sometimes, as in the last case, a significant part of this cost. It is in all cases an additional factor to be considered in decisions on how to treat wastewater and ultimately where to locate a plant. Its implications can only be negative for industries in the Northeast.

We are coming to the end of the ICR moratorium period in a few weeks. EPA itself, in an April 10, 1979, letter from Assistant Administrator Jorling, has recommended that the moratorium be extended for 2 years, not just 1 year. One option which EPA stated in that letter as meriting further study during the moratorium period is the repeal of ICR as a condition of construction grants assistance.

In recommending that the moratorium be extended, the Environment and Public Works Committee has instructed the EPA to further examine ICR and whether it should be repealed or maintained. The Agency is expected to come forth with legislative recommendations regarding ICR by October 1, 1979. Two issues which we have mandated EPA to consider are the desirability of keeping industries tied into municipal plants, rather than driving them out, and second, the efficacy of EPA's cost-effectiveness guidelines, mandated by the Clean Water Act, in restricting capacity of municipal plants. As I noted earlier, municipal-industrial agreements regarding additional industrial capacity are already instrumental in capacity control.

EPA will also be required to study the administrative feasibility of its recommendations to the Congress.

In summary, the EPA should review various options in developing their legislative recommendations. These include:

First. Continuing the present industrial cost recovery system along with any recommended modifications to make it more efficient;

Second. Eliminating industrial cost recovery; and

Third. If industrial cost recovery is eliminated, any changes in the cost-effectiveness guidelines or other existing provisions to further legislative goals.

The Environment and Public Works Committee will hold hearings later this year on the ICR issue to examine agency, as well as industry and community, recommendations.

Mr. President, I appreciate the support of my committee colleagues, particularly Senator MUSKIE, on the ICR moratorium extension. The committees in both Houses had discussed or heard testimony on ICR in 1977, before the conferees agreed to the first moratorium at that time.

The committee has received several expressions of concern from local government leaders and industries on the ramifications of ICR. Many communities, both during the recent EPA study and in letters to committee members, have actually favored repeal of ICR. I must say that this is the alternative which I support.

ICR fails to accomplish the goals intended by the Congress in 1972. This does not mean that such goals, especially water conservation, are suspect. Other sections of the Clean Water Act spur efforts to meet these needs. I do look forward to hearing suggestions from EPA and others as to what we can do to improve our chances to meet these goals.

But it is my belief that there is no need to beat a dead horse—to get a performance from ICR which it cannot provide. The costs, both to municipalities and business, are highly disproportionate to the extremely slight role of ICR in meeting the needs I mentioned earlier.

Mr. President, in closing, I ask unanimous consent to be printed with my remarks some examples of letters and statements from local government leaders on the ICR issue.

There being no objection, the material was ordered to be printed in the Record, as follows:

April 10, 1979.

Hon. John Chafee,
*Dirksen Senate Office Building,*
*Washington, D.C.*

Dear Senator Chafee: When you addressed the Association of Metropolitan Sewerage Agencies (AMSA) on March 20 on the subject of Industrial Cost Recovery (ICR), you indicated to Dr. I. M. Rice, our Director of Water Utilities, that you would be interested in any information we had concerning the administrative burden of collecting ICR.

The Dallas City Council has opposed ICR since November 1977. The costs of administering ICR in Dallas appear to far outweigh any receipts which can be expected. In an October 28, 1977 Mailgram to Senator Lloyd Bentsen, we stated that our preliminary estimates indicated that it would cost the City of Dallas more than $150,000 per year to make ICR collections; an expense which would yield only $100,000 for the City.

Since that time, we have been updating the potential costs. In an October 16, 1978 statement to the EPA, Dr. Rice stated that for FY 1978, the full costs of ICR would have been $159,075. However, a supplemental ICR charge to our industrial customers in FY 1978 would have yielded only approximately $1776; an 80-to-1 ratio.

When looking at the current fiscal year, the costs for administering the ICR program would have been $170,686. And even though the receipts would have risen to a total of $52,394, the ratio is still out of proportion. And although the ICR collections would rise in subsequent years as more grants are completed, it likely would not approach the full costs allocable to ICR here in Dallas.

As cities across the nation are trying to trim unnecessary spending wherever possible in an effort to cope with the high rate of inflation, it seems ill-advised to impose Federal regulations requiring expenditures which exceed any foreseeable monetary benefits.

Thank you for the opportunity to express our views.

Yours very truly,
George R. Schrader,
*City Manager.*

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Resolution

Whereas the United States Congress is presently considering Senate Bill 901 which would extend the moratorium on collection of taxes under the Industrial Cost Recovery Provisions of the Clean Water Act; and

Whereas the Council of the City of Allentown believes the ICR tax subjects City industries and commercial enterprises to a tax burden not applicable to all competing industries and commercial enterprises in other municipalities; and

Whereas the required collection of the ICR tax from Allentown industries and commercial enterprises may discourage such business from locating in the City of Allentown;

Now, therefore, it is resolved by the City Council of the City of Allentown, Pennsylvania, that the City Council supports Senate Bill 901 and encourages passage by the United States Congress of S. 901 or similar legislation which may accomplish one or more of the following purposes:

The abolition of the Industrial Cost Recovery System:

Extension of the moratorium upon collection of ICR taxes;

Exoneration of any taxes accumulated or during the period of the moratorium or any extension thereof;

Repeal of the requirement for municipalities to maintain a standby ICR structure during any moratorium.

Be it further resolved that a copy of this Resolution be forwarded to Congressman Donald Ritter and Senators Richard S. Schweiker and H. John Heinz III as an expression of the concern of the City of Allentown.

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May 11, 1979.

Hon. John Chafee,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Chafee: I would urge you to reject the renewal of the ICR portion of PL 92-500.

We have a good working relationship with local industry and they have been strained economically with the addition of the sewer service charge. While the sewer service charge is understandable and justified, I feel the ICR would place an undue strain upon local industry and inhibit any further expansion or growth.

Your consideration would be appreciated.

Respectfully,
Richard W. Suecha,
*Mayor.*

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October 23, 1978.

Re ICR Evaluation.

Mr. John Gall,
*WC/ICR Coordinator, Municipal Facilities Branch, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Mass.*

Dear Mr. Gall: I am writing to offer comment concerning the Industrial Cost Recovery System study now being conducted by EPA under mandate of the Clean Water Act of 1977. This office would like to express complete opposition to the concept and implementation of the ICR system for the following reasons.

1. An industry is as much a part of a community as a homeowner, shop owner, drug store, school, church, etc. and therefore should be treated no differently with respect to receiving the benefits of federal construction grants.

2. The ICR system operates to encourage industries to construct separate treatment facilities instead of joining with municipalities to build a single treatment plant. In our opinion numerous smaller treatment plants are more costly to build and operate than fewer, larger plants. Further they are less reliable, particularly when privately owned because controlling effluent quality is peripheral to the manufacture of goods and private operators are frequently at the bottom of the pay scale, change jobs more frequently and require a greater program effort to train.

3. Administration of the ICR system imposes an unnecessary burden on small municipal governments which are forced to keep separate accounts suitable for federal audit.

4. The existence of an ICR system does not contribute toward the stated goals of the

Water Pollution Control Act by causing or accelerating the abatement of pollution or in any way restore water uses or water quality.

5. The money repaid by an industry must be based in part to defray the cost of future pollution abatement work and such amounts used are to be deducted from the federal grant awarded at that time. The municipality gains no benefit from these funds, but must maintain an accounting of them. A small town may never again undertake a project qualifying for construction grants under PL 92–500 particularly recognizing the current trend of restricting eligibility.

6. Development and submission of ICR systems or commitment to do so add one more administrative step to final design and construction projects, already overburdened with red tape.

7. Deletion of ICR requirements from the program will help simplify planning requirements, reduce planning and administrative costs, encourage regionalized sewerage systems and lift unnecessary and continuing administrative burdens from small municipalities.

I trust the above summarizes our view of the ICR system. I would be happy to elaborate on these points if you wish.

Sincerely,

REGINALD A. LAROSA, P.E.,
*Director, Environmental Engineering.*

Mr. BAKER. Mr. President, I rise in support of S. 901 and would like to express my interest in the investigation of the industrial cost recovery (ICR) issue which will be carried out by the Committee on Environment and Public Works during the course of the moratorium established in the legislation which is before us for approval today.

Mr. President, a very brief review of congressional action on this matter may be helpful here. Section 204 of the Federal Water Pollution Control Act of 1972 (Public Law 92–500) required all sewage treatment works receiving EPA construction grant moneys to develop, install, and maintain approved systems for ICR. Congress included this provision in the act to insure that those industries using publicly owned treatment works for disposal of their wastewater would repay that portion of the money provided by EPA's construction grants program for industrial capacity in publicly owned sewage treatment plants. This is a worthy goal and one which I endorse.

However, during subsequent consideration of the 1972 water bill the Congress was approached by a number of communities, including a number in my home State of Tennessee, which were concerned with the administrative, political, and economic problems they must face in trying to comply with this provision. In 1977 in response to these concerns, Congress specified in Public Law 95–217 (the bill amending the 1972 act) that EPA conduct a study of the need for the ICR provision, and on the feasibility of the ICR program. Public Law 217 also included a moratorium provision delaying ICR payments until EPA had had a chance to complete this analysis of the ICR program.

This moratorium will end on June 30 of this year and the ICR payments and program requirements will be reinstated even though the study required in the 1977 law has now been completed and raises a number of questions as to whether the ICR provision can accomplish the goals set for it by Congress. With the results of the study in mind the Congress must decide if the ICR program should be significantly modified or even discontinued.

Senator CHAFEE earlier this year introduced legislation, S. 901, which would have repealed the ICR provision based on the results of the study outlined above. However, during the Environment Committee's review of S. 901 it was agreed that additional information and more detailed recommendations on the future of the provision should be prepared by EPA and presented to the committee at hearings on this subject later this year. It is hoped that the Agency's analysis will provide a better basis upon which the committee can make a final decision on the ICR question.

The moratorium we are asked to approve in the legislation before us today will simply stay the further implementation of the ICR provision until the committee has had time to act.

Mr. President, I believe that every effort should be made to insure that this provision is capable of achieving its congressionally intended purposes before further implementation proceeds. If there is one thing that we most assuredly do not need it is another unnecessary complication which could delay progress in the municipal sewage treatment plant construction program.

I, therefore, would urge that my colleagues support S. 901 and in addition pledge my interest and support of the committee's future investigation of this matter.

### MORATORIUM ON THE INDUSTRIAL COST RECOVERY PROVISIONS OF THE CLEAN WATER ACT

● Mr. GRAVEL. Mr. President, I support S. 901, which extends the moratorium on the industrial cost recovery provision of the Clean Water Act. The Environment and Public Works Committee unanimously approved the extension.

In fact, I would note that several communities have urged the Congress to totally repeal ICR. Back in 1977, at our committee hearings on proposed clean water amendments, a representative of the municipality of Anchorage sewage utility stated:

> The Municipality of Anchorage is supportive of an amendment which would eliminate the industrial cost recovery system and its requirements. In the case of Anchorage, it would cost in excess of $30,000 to establish a system and put it on board to collect in the area of $700 annually. Thus the costs of administering the ICR requirements are far in excess of any benefits. Rather, the Municipality of Anchorage feels that it can administer a pretreatment policy which will be more than adequate to take the burden of treating any type of industrial waste from the shoulders of the Municipal wastewater facility without bringing in a third party (the industrial user) to the already complicated grant and user charge systems.

Thus, I believe that with the end of the current moratorium fast approaching, we must immediately take this step to extend the moratorium on ICR. I urge my colleagues to support S. 901 and look forward to working further on the issue in the Environment and Public Works Committee.●

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610).

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

# Calendar No. 214

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–200

# INDUSTRIAL COST RECOVERY

JUNE 5 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. MUSKIE, from the Committee on Environment and Public Works, submitted the following

## REPORT

[To accompany S. 901]

The Committee on Environment and Public Works, to which was referred the bill (S. 901) to amend section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

### GENERAL STATEMENT

In the 1972 Federal Water Pollution Control Act Amendments, Congress included the industrial cost recovery provision to assure that industrial participants in municipal treatment plants repaid the share of the Federal construction cost attributable to the treatment of their industrial wastes. In this way, the Federal Government would not be subsidizing capital construction costs for industrial waste treatment through the water pollution control program.

The Senate report discussed this provision at some length:

> The bill would deal with industrial pollutants in this way: each industrial user of a public system would pay a charge that would include not only that share of operating and maintenance costs allocable to such user but which would also be sufficient to recover that portion of the Federal share of the capital cost of the facility allocable to such used. That portion of the Federal share of the capital cost allocable to each industrial user would be returned to the Federal treasury.
>
> The committee believes that this approach to the issue of industrial use of public facilities appeared to the committee to be the most reasonable and equitable one that can be devised. Any scheme that did not provide for full recovery of

> the Federal share of capital costs allocable to industrial users would clearly constitute a Federal subsidy of private industry and, more particularly, of those industries that were so situated as to make use of public facilities and industries producing wastes that are compatible with public treatment systems. Any other approach would discriminate unfairly against those industries which, for whatever reason, were unable to utilize public systems.

The House Report made the following statement:

> In connection with industrial users of publicly owned systems, the Committee desired to establish within the user charge system an arrangement whereby industrial users would pay charges sufficient to bear their fair portion of all costs including the share of Federal contributions of Federal contributions for capital construction attributable to that part of the cost of constructed facilities attributable to use by industrial sources. It is the Committee's view that it is inappropriate in a large Federal grant program providing a high percentage of construction funds to subsidize industrial users from funds provided by the taxpayers at large.

In the 1977 Clean Water Act Amendments, a new paragraph was added to section 204(b):

> (6) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.

However, at the same time, the Congress believed that it was necessary to mandate a moratorium on industrial cost recovery payments to the Treasury, so that the Agency could conduct a study of the efficiency and need for such a provision. The Congress required that the study include an analysis of the impact of industrial cost recovery on rural communities and on industries in economically distressed areas or areas of high unemployment.

Industrial cost recovery payments to the Treasury will resume at the end of the 18-month moratorium, if Congress does not change the law. The moratorium expires on June 30, 1979. At that time, all the changes made to industrial cost recovery in the 1977 amendments would be fully implemented.

To fulfill the requirements of the 1977 amendments, the Environmental Protection Agency contracted with Coopers and Lybrand, a Washington, D.C. consulting firm, to examine issues associated with the industrial cost recovery position. The report was submitted to the Congress by Douglas Costle, the Administrator of the Environmental Protection Agency, January 25, 1979. In his letter accompanying the final study, the Administrator stated that "this study was conducted with the fullest public participation achieved to date by EPA in any major study." The Agency further stated that a broad spectrum of industrial, environmental, civic and governmental organizations were actively involved throughout the study. An industrial cost recovery advisory group was formed, composed of approximately 40 individuals who represented this spectrum of viewpoints. Information was gathered from 227 sanitary agencies and 394 industrial plants. Ten regional public hearings were held on draft report findings during the fall months of 1978. These regional meetings often included interview sessions with affected communities' officials, with regional Environmental Protection Agency representatives present.

The study was based on questionnaires sent to industry and Government officials, as well as interviews with both groups. This information was then placed in a computer, and a simulation analysis was conducted, which attempted to discern how companies would behave if their decisions were based completely on economic information and rested on no other factors.

Because approved industrial cost recovery systems had been in effect for only a short time prior to the moratorium, total industrial collections were less than $2 million by the end of 1977. At the same time, several communities had collected some industrial cost recovery or had their industrial cost recovery systems ready to go. Questionnaires to industry necessarily concentrated not only on the past effects of industrial cost recovery, but also on the probable future effects of the provision.

The contractor's report reached one major conclusion: the industrial cost recovery provisions of Public Law 92–500 have not accomplished their legislative purposes.

Specifically, the report found that (1) industrial cost recovery funds returned to the grantee do not significantly contribute towards the grantees capability to finance future expansion, upgrading or replacement of waste-water treatment works; (2) changes in the tax law and Internal Revenue Service regulations since 1972 have decreased the extent to which the construction grants program is likely to be used as a subsidy to industries utilizing publicly-owned treatment works; (3) that the substantial water conservation which has occurred among industrial users since the 1972 law was enacted is due to the proportionate user charge, rather than industrial cost recovery; and (4) industrial cost recovery has had little apparent influence on industries' decisions regarding industrial capacity in a treatment works.

The study estimates that the total industrial cost recovery revenues collected would be an average of $60 million per year when all publicly-owned treatment works funded under the authorization of the 1972 law and the 1977 amendments are in place. Only half of this amount will be returned to the Federal Treasury. This amount is substantially below the estimates made in 1972. Further, the study suggested that industrial cost recovery has been and will be difficult to manage for both grantees and the Environmental Protection Agency.

While the report raises many questions, it cannot yet serve as the basis for final legislation. In light of the concerns raised by that report, and the fact that the moratorium deadline is near, the committee feels that it is necessary to extend the moratorium. This will give the Congress time to fully assess the study, the impact of industrial cost recovery, and develop further information necessary to make a decision on the efficacy of the provision.

Many unanswered questions follow from the statements made in the report. Some of these lead to questions about the validity of some of the findings in the report. The Senate Public Works Committee estimated in 1972 that half of the $18 billion in construction would be for industrial waste treatment. The Coopers-Lybrand study more or less confirmed that 50 percent estimate. The report claims that 55 percent of waste water revenues come from the nonresidential sector.

If this is accurate, then it would be logical to expect that a high proportion of the nearly $45 billion Federal investment in pollution control facilities would be recovered under the industrial cost recovery provision. Yet the study estimates that only $1.8 billion will be collected, of which less than $1 billion will be returned to the Federal Treasury. There is inadequate explanation of the gap between these figures. How much of this non-recovery of capital costs is due to failure to comply with the law in the grant approval process?

The Environmental Protection Agency has provided the committee a lower estimate of the percentage of industrial use of municipal systems, based on its 1978 needs survey. The question of whether such different views on a fundamental issue undermine other conclusions reached in the report needs a thorough investigation.

The report predicts that many industries in the future are likely to choose to build their own treatment systems rather than join a municipal system. The principal reason given is the economic effect of tax code changes that have occurred. Yet, it would appear that there are many industries that would have difficulty in raising the capital to build a separate treatment system, or might not have profits large enough to take advantage of the new tax provisions, or might be limited by the physical location of the plant.

Because the findings of the report rest in a significant way on estimates of future behavior based on projections on very limited data, it is important to provide adequate answers to questions that flow from this initial report.

The Environmental Protection Agency submitted further comments on the report in a letter April 10. That letter states the following regarding the Coopers and Lybrand Report and action to be taken regarding the report:

> The report did not evaluate the character of the statutory ICR program against alternatives which might enable the provision to achieve its intended purposes. Such an analysis would be a most important base of information on which Congress could then make judgments on whether or not the ICR program should be allowed to (a) commence under its present authorization; (b) amended to make adjustments; or (c) repealed as a condition of the construction grants assistance.
>
> The administration does not believe that sufficient information is available to adivse Congress on the appropriate set of alternative actions at this time.
>
> Therefore, the administration takes the position that the Congress should extend the present moratorium on the ICR program for an additional 2 years, during which time the

administration will evaluate the present ICR report against options which might allow it to carry out its statutory purposes.

## COMMITTEE ACTION

Thus, further information will prove helpful to the committee in evaluating industrial cost recovery and possible alternatives. This is in recognition of the fact that the legislative purposes stated in 1972 are good objectives. The committee therefore ordered reported an amended version of S. 901. The bill extends the existing moratorium created by the 1977 amendments for an additional year. All aspects of the moratorium would remain as they now operate under the 1977 amendments. The moratorium would extend to June 30, 1980.

The Environmental Protection Agency is instructed to further examine the industrial cost recovery provision and issues related to its implementation. Such analysis should take into account the desirability of industries joining municipal treatment works. The Agency should be ready to come forward with legislative recommendations regarding industiral cost recovery by October 1, 1979.

The types of information needed to enable the committee to further evaluate the provision include:

1. An analysis of the possible effects of the changes made to industrial cost recovery by the Congress in 1977, including the 25,000 gallon per day sanitary waste, exclusion.
2. The efficacy of the EPA cost-effectiveness guidelines, mandated by the Clean Water Act, in restricting capacity of municipal plants. This should include an analysis of the control and payments already required by municipal-industrial agreements regarding additional industrial capacity.

The study should review various options in developing legislative recommendations for the committee's consideration. These include:

1. Continuing the present industrial cost recovery system along with any recommended modifications to make it more efficient;
2. Eliminating industrial cost recovery;
3. If industrial cost recovery is eliminated, any changes in the cost-effectiveness guidelines or other existing provisions to further legislative goals.

The study will investigate for each option the degree to which industry pays its way, the extent to which industrial participation in a municipal wastewater treatment system is encouraged or discouraged, and its administrative feasibility.

For the first option, the Agency should look at the possibility of graduating industrial cost recovery payments according to classes of dischargers or other means of distinguishing among dischargers. Additionally, for the second option, the study will assess how much industry cost recovery has been collected to date. Finally, EPA may wish to comment on how recent tax code changes affect the industrial cost recovery provisions ability to meet congressional objectives.

The Agency should be ready to present those views in a hearing later this year. The study to be conducted by the Environmental Protection Agency should be undertaken with close consultation with the committee.

## HEARINGS

No hearings were held on this legislation. Because the industrial cost recovery provision would go back into effect on July 1, 1979, the committee felt it was necessary to act at this time. Hearings will be scheduled during the period of the moratorium extension.

## COMMITTEE VOTES

The committee ordered the bill reported by unanimous voice vote May 10.

## EVALUATION OF REGULATORY IMPACT

The bill would create no new regulatory impact. It would reduce the impact of regulation by delaying the effective date for implementation of the industrial cost recovery provision.

## COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
*Washington, D.C., May 15, 1979.*

Hon. JENNINGS RANDOLPH,
*Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed a bill to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act Amendments of 1977, as ordered reported by the Senate Committee on Environment and Public Works, May 10, 1979.

Under the moratorium, as extended by this bill, local industries are excluded until June 30, 1980 from paying to the municipal grantee of a wastewater construction grant project their determined share of the cost of construction. It is expected that no additional cost to the Government will be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
*Director.*

## CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirements of subsection (f) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

II

**Calendar No. 214**

96TH CONGRESS
1ST SESSION

# S. 901

**[Report No. 96-200]**

To amend section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, FEBRUARY 22), 1979

Mr. CHAFEE (for himself and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 5 (legislative day, MAY 21), 1979

Reported by Mr. MUSKIE with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To amend section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

~~SECTION 1. (a) Clause (B) of paragraph (1) of subsection (b) of section 204 of the Clean Water Act (33 U.S.C. 1284(b)(1)(B)) is hereby repealed effective March 1, 1973,~~

~~and paragraph (1) of subsection (b) of section 204 is amended by striking out clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".~~

~~(b) Paragraphs (3) and (6) of subsection (b) of section 204 of the Clean Water Act (33 U.S.C. 1284(b) (3) and (6)) are hereby repealed effective March 1, 1973, and subsection (b) of section 204 is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (5) and (6) as paragraphs (3) and (4) respectively.~~

~~(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Clean Water Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions or other requirement.~~

~~(d) Upon receipt of an application submitted by the recipient of any grant which is subject to subsection (c) of this section which has collected and paid into the United States Treasury, prior to enactment of this section, amounts under section 204(b)(3) of the Clean Water Act (33 U.S.C. 1284(b)(3)), to satisfy the requirements of section 204(b)(1)(B) of the Clean Water Act (33 U.S.C. 1284(b)(1)(B)), the Ad-~~

~~ministrator shall reimburse such grant recipient for 120 per centum of such amounts. The Administrator shall also reimburse the grant recipient for 100 per centum of the amount, if any, expended by the grantee, with the Administrator's approval, for the expansion or reconstruction of treatment works from the funds reserved by the grantee under section 204(b)(3) of the Clean Water Act (33 U.S.C. 1284(b)(3)). The grant recipient shall also be released from its obligation to hold the funds reserved by the grantee under section 204(b)(3) of the Clean Water Act (33 U.S.C. 1284(b)(3)) for the future expansion and reconstruction of treatment works.~~

~~(e) Each grant recipient shall, within one hundred and eighty days of the receipt by the grantee of the reimbursement required in subsection (d) of this section, refund to each industrial user 100 per centum of the industrial cost recovery payments made by such industrial user, unless the grantee elects to use part or all of such payments to pay debt service charges for existing treatment works, which election shall be subject to the provisions of subsection (f) of this section. If part of such payments are used to pay debt service charges, the remainder shall be refunded to the industrial users in proportion to the amount of industrial cost recovery payments received from each industrial user.~~

~~(f) The Administrator shall authorize a grantee to utilize part or all of the reimbursement required under subsection (d)~~

~~of this section and the funds previously reserved under section 204(b)(3) of the Clean Water Act (33 U.S.C. 1284(b)(3)) for the payment of debt service of existing treatment works upon condition that such grantee shall include evidence, satisfactory to the Administrator, in its application under subsection (d) of this section that such grantee has relied in the past on using part or all of its discretionary share of industrial cost recovery payments for the payment of such debt service of existing treatment works.~~

~~SEC. 2. Section 201(h) of the Clean Water Act (33 U.S.C. 1281(h)) is hereby amended by striking out the last sentence.~~

~~SEC. 3. The second sentence of section 213(d) of the Clean Water Act (33 U.S.C. 1293(d)) is hereby amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".~~

~~SEC. 4. (a) Section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.~~

~~(b) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed effective January 1, 1978.~~

~~SEC. 5. There is authorized to carry out the provisions of this Act, $8,000,000 to be available until expended. Claims for reimbursement under subsection (d) of section 1 of this Act shall be submitted to the Administrator by June 30, 1980.~~

*That (a) section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby amended by striking out "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".*

*(b) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby amended by striking out "eighteen-month" each time these words appear and inserting in lieu thereof each time the words "thirty-month".*

Amend the title so as to read: "A bill to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610).".

# APPENDIX

## NOTES ON USE OF THE INDEX

1. The index is preceded by two sets of comparative tables. Tables 1 and 2 compare sections of the Clean Water Act as amended, the conference report on S. 1128, S. 1128, and H.R. 8 (99th Congress), which preceded enactment of P.L 100-4. Tables 3 and 4 compare sections of the Clean Water Act as amended, the conference report on H.R. 4503, S. 1716, and H.R. 4503 (97th Congress).

2. A dash (...) in place of a section number in the tables indicates "No Comparable Provision."

3. Bold figures in the index denote particularly significant references.

## TABLE I. AMENDMENTS TO THE CLEAN WATER ACT BY PUBLIC LAW 100-4, BY SECTION [1]

| | Clean Water Act, as amended | S. 1128, conf. rpt. | S. 1128, as reported | H.R. 8, as reported | H.R. 8, as passed (7/23/85) |
|---|---|---|---|---|---|
| **Title I -- Research and related programs:** | | | | | |
| Declaration of goals and policy | 101(a) | 316(b) | | 6 | 6 |
| Small Flows Clearinghouse | 104(q) | 102 | 102 | 9 | 9 |
| Authorizations for research | 104(u) | 101(a) | 101(a)-(c),2(a) | 2(a) | 2(a) |
| Grants for program administration | 106 | 101(b) | 101(d) | 2(b) | 2(b) |
| Training grants and scholarships | 112(c) | 101(c) | 101(e) | 2(c) | 2(c) |
| Chesapeake Bay | 117 | 103 | 121 | | 42 |
| Great Lakes | 118 | 104 | 122 | | 59 |
| **Title II -- Grants for construction of treatment works:** | | | | | |
| Eligibility of nonpoint sources | 201(g) | 316(c) | | 10(b) | 10(b) |
| Time limit on resolving certain disputes | 201(p) | 201 | | 11 | 11 |
| Federal share | 202 | 202 | 203(a) | 12 | 12 |
| Agreement on eligible costs | 203(a) | 203 | | 13(a) | 13(a) |
| Design/build projects | 203(f) | 204 | 204 | 13(b) | 13(b) |
| Grant conditions; user charges on low-income residential users | 204(a),(b) | 205 | | 14 | 14 |
| Nonpoint source reservation | 205(j) | 316(d) | 112(c) | | |
| Allotment formula | 205(c) | 206(a) | 202 | 15(a) | 15(a) |
| Minimum allotments | 205(e) | 206(b) | 201(b) | 15(b) | 15(b) |
| Costs of administration | 205(g) | 206(c) | 203(c) | 15(c) | 15(c) |
| Control of pollutants from storm sewers | 211(c) | 206(d) | *(2)* | *(2)* | *(2)* |
| Rural setaside | 205(h) | 207 | | 15(e) | 15(e) |
| Innovative and alternative projects | 205(i) | 208 | 205 | 15(f) | 15(f) |
| Regional organization funding | 205(j) | 209 | | 15(g) | 15(g) |
| Marine CSO's and estuaries | 205(l) | 210 | 206 | 10(a) | 10(a) |
| Authorizations for construction grants | 207 | 211 | 201(a) | 3 | 3 |
| Areawide planning | 208(f) | 101(d) | | 2(d) | 2(d) |
| Rural clean water | 208(j) | 101(e) | | 2(e) | 2(e) |

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[1] *NOTE: The bills compared in this table, S. 1128 and H.R. 8, were considered in the 99th Congress, which approved the conference report on S. 1128 in October 1986. However, the President disapproved the bill by pocket veto in November 1986, after the 99th Congress had adjourned; thus, there was no opportunity for the 99th Congress to attempt to override the veto. The amendments enacted in February 1987 as Public Law 100-4 were identical to the 99th Congress legislation, making section-by-section comparison of those bills appropriate. Other explanatory notes appear at the end of this table.*

TABLE 1. AMENDMENTS TO THE CLEAN WATER ACT BY PUBLIC LAW 100-4, BY SECTION -- cont.

| | Clean Water Act, as amended | S. 1128, conf. rpt. | S. 1128, as reported | H.R. 8, as reported | H.R. 8, as passed (7/23/85) |
|---|---|---|---|---|---|
| State Water Pollution Control Revolving Funds | Title VI | 212(a) | 208 | 16(a) | 16(a) |
| **Title III -- Standards and enforcement:** | | | | | |
| Compliance dates | 301(b) | 301(a)-(e) | 103 | 4(a)-(d) | 4(a)-(d) |
| Modification for nonconventional pollutants | 301(g) | 302 | 105 | | 17 |
| Discharges into marine waters | 301(h) | 303 | 104 | | 18 |
| Filing deadline for treatment works modification | 301(i) | 304 | | | 19 |
| Innovative technology compliance deadlines for direct dischargers | 301(k) | 305 | | 17 | 21 |
| Fundamentally different factors | 301(n) | 306 | 106 | 18 | 22(a) |
| Coal remining operations | 301(p) | 307 | | | 23 |
| Individual control strategies for toxics | 304 | 308 | 107 | 5 | 5 |
| Lake restoration guidance manual | 304(j) | 315(c) | | 8 | 8 |
| Interagency agreements | 304(k) | 101(f) | | 2(f) | 2(f) |
| Water quality criteria for toxics | 303(c) | 308(d) | 107(c) | *(3)* | *(3)* |
| Modification of effluent limitations | 302(b) | 308(e) | 107(e) | | |
| Schedule for review of guidelines | 304(m) | 308(f) | 107(f) | | |
| Pretreatment standards | 307 | 309 | | 21 | 26 |
| Inspection and entry | 308 | 310 | | | 27 |
| Criminal penalties | 309(c) | 312 | 109(e) | 22 | 28 |
| Civil penalties | 309(d) | 313 | 109(a) | 23 | 29 |
| Administrative penalties | 309(g) | 314 | 109(d) | 24 | 30 |
| Marine sanitation devices | 312 | 311 | | | 32 |
| Clean lakes | 314 | 101(g), 315 | 101(i), 123 | 2(g), 25 | 2(g), 33 |
| Management of nonpoint sources of pollution | 319, 304(k) *(4)* | 316(a), (e) | 112(a), (b) | 7 | 7, 52 |
| National estuary program | 320 *(5)* | 317 | 113 | | 45 |
| **Title IV -- Permits and licenses:** | | | | | |
| Stormwater runoff from oil, gas, and mining operations | 402(l) | 401 | 114 | 26(b) | 34(b) |
| Additional pretreatment of conventional pollutants not required | 402(m) | 402 | | 26(c) | 34(c) |
| Partial NPDES program | 402(n), (c) | 403 | | 26(d), (e) | 34(d), (e) |
| Anti-backsliding | 402(o) | 404 | 115 | | 34(g) |
| Municipal & industrial stormwater discharge | 402(p) | 405 | | 26(b) | 34(b) |
| Violations of section 404 permits | 404(s) | 313(d) | 109(c) | | |

TABLE 1. AMENDMENTS TO THE CLEAN WATER ACT BY PUBLIC LAW 100-4, BY SECTION -- cont.

| | Clean Water Act, as amended | S. 1128, conf. rpt. | S. 1128, as reported | H.R. 8, as reported | H.R. 8, as passed (7/23/85) |
|---|---|---|---|---|---|
| Sewage sludge | 405 | 406 | 116 | | 47 |
| **Title V -- General provisions:** | | | | | |
| Audits | 501(d) | 501 | | 27 | 35 |
| Commonwealth of Northern Mariana Islands | 502(3), 311(a) | 502 | | 28 | 36 |
| Agricultural stormwater discharges | 502(14) | 503 | | 29 | 37 |
| Protection of U.S. interests | 505(c) | 504 | 109(e) | | |
| Judicial review and award of fees | 509(b), 505(d) | 505 | 111 | | |
| General authorizations | 517 | 101(h) | 101(g) | 2(h) | 2(h) |
| Indian tribes | 518 | 506 | 207 | | 40 |
| **Title VI -- State Water Pollution Control Revolving Funds:** | | | | | |
| Grants to States to establish SRFs | 601 | 212(a) | 208 [601(d)] *(6)* | 16(a) [220(a)] *(6)* | 16(a) |
| Capitalization grant agreements | 602 | 212(a) | 208 [602] | | |
| Water Pollution Control Revolving Loan Funds | 603 | 212(a) | 208 [603] | 16(a) [220(d)] | 16(a) |
| Allotment of Funds | 604 | 212(a) | 208 [601(b),c)] | 16(a) [220(h)] | 16(a) |
| Corrective Action | 605 | 212(a) | 208 [601(f),(g)] | | |
| Audits, reports, and fiscal controls; intended use plan | 606 | 212(a) | 208 [604] | 16(a) [220(e)] | 16(a) |
| Applicability of Title II provisions | 606(f) | 212(a) | | 16(a) [220(f)] | 16(a) |
| Authorization of appropriations | 607 | 212(a) | 208 [601(a)] | 16(a) [220(g)] | 16(a) |
| State option to use Title II funds | 205(m) | 212(b) | 209 | 16(a) [220(b)(1)(B)] | 16(a) |
| Report to Congress | 516(g) | 212(c) | 210 | | 39(g) |
| **Subjects which did not amend the Clean Water Act:** | | | | | |
| Short title; table of contents; amendments to FWPCA; definition of Administrator | | 1 | | 1 | 1 |
| Limitation on payments | | 2 | | 53 | 79 |
| Research on effects of pollutants | | 105 | | | 46 |
| Innovative process | | 202(e) | | 12(d) | 12(e) |
| Funds for non-Federal share | | 202(f) | | | 12(f) |
| Improvement projects | | 213 | | 42 | 66 |
| Chicago Tunnel and Reservoir Project | | 214 | 203 *(7)* | | |
| Ad valorem tax | | 215 | 119 | | |
| Deadlines for regulations for certain toxic pollutants | | 301(f) | | 4(e) | 4(e) |

TABLE 1. AMENDMENTS TO THE CLEAN WATER ACT BY PUBLIC LAW 100-4, BY SECTION -- cont.

| | Clean Water Act, as amended | S. 1128, conf. rpt. | S. 1128, as reported | H.R. 8, as reported | H.R. 8, as passed (7/23/85) |
|---|---|---|---|---|---|
| Application for sec. 301(g) modification | 302(e) | 105(b), (c) | | | 17(b) |
| Phosphate fertilizer effluent limitation | 306(c) | (2) | | (2) | (2) |
| Water quality improvement study | 308(g) | | | 45 | 69 |
| Increase in EPA employees | 309(b) | | | 21(b) | 26(b) |
| Civil penalties: savings provision, increased State penalty not required | 313(a), (b) | 109(b) | | 23(b) | 29(b) |
| Administrative penalties report | 314(b) | 109(e) | | | |
| Unconsolidated Quatenary Aquifer | 318 | | | | 51 |
| Anti-backsliding study | 404(c) | | | | 34(g) |
| Removal credits | 406(e) | (2) | | (2) | (2) |
| Log transfer facilities | 407 | 126 (7) | | | 34(f) |
| Definition of point source | 507 | | | | 41 |
| Special provisions regarding certain dumping sites | 508 | (2) | | (2) | (2) |
| Ocean discharge research project | 509 | | | | 49 |
| San Diego, California | 510 | | | 32 | 55 |
| Limitation on discharge of raw sewage by New York City | 511 | 120 | | 34 | 57 |
| Oakwood Beach and Red Hood projects, New York | 512 | | | 36 | 60 |
| Boston Harbor and adjacent waters | 513 | | | 35, 40 | 58, 64 |
| Wastewater reclamation demonstration | 514 | | | 39 | 63 |
| Des Moines, Iowa | 515 | | | 38 | 62 |
| Study of de minimis discharges | 516 | | | 43 | 67 |
| Innovative and alternative processes study | 517 | | | 44 | 68 |
| Study of testing procedures | 518 | | | 46 | 70 |
| Study of pretreatment of toxic pollutants | 519 | | | 47 | 71 |
| Studies of water pollution problems in aquifers | 520 | | | | 72 |
| Great Lakes consumptive use study | 521 | | | | 73 |
| Sulfide corrosion study | 522 | | | 48 | 74 |
| Study of rainfall induced infiltration into sewer systems | 523 | | | 50 | 76 |
| Dam water quality study | 524 | | | | 39(f) |
| Study of pollution in Lake Pend Oreille, Idaho | 525 | 124 | | 52 | 78 |

**Subjects in S. 1128 or H.R. 8 but not included as provision in Public Law 100-4:**

| | Clean Water Act, as amended | S. 1128, conf. rpt. | S. 1128, as reported | H.R. 8, as reported | H.R. 8, as passed (7/23/85) |
|---|---|---|---|---|---|
| Term of NPDES permits | | | | 26(a) | 34(a) |
| Reservation for Interstate Sanitary Commission | | | | 15(d) | 15(d) |
| Reservation for investigations and audits | | | | 15(h) | 15(h) |
| Interstate dispute resolution | | | 118 | | |
| Preservation of other rights | | | 119 | | 80 |
| Relationship to other laws | | | | | 31 |

### TABLE 1. AMENDMENTS TO THE CLEAN WATER ACT BY PUBLIC LAW 100-4, BY SECTION -- cont.

| | Clean Water Act, as amended | S. 1128, conf. rpt. | S. 1128, as reported | H.R. 8, as reported | H.R. 8, as passed (7/23/85) |
|---|---|---|---|---|---|
| Test procedures | | | | 20 | 25 |
| Study of pH discharges from mining operations | | | | | 77 |
| Pulp mill study | | | | 49 | 76 |
| Treatment works in Washington State | | | | 41 | 65 |
| Chippewa Township, Pennsylvania | | | | 37 | 61 |
| Naco, Arizona | | | | 33 | 56 |
| Newtown Creek, New York | | | | 31 | 54 |
| Grants for replacement of contaminated groundwater | | | | | 50 |
| Demonstration program on acidified lakes | | | | | 53 |

**Note:** Blank, or no section number, indicates no similar provision.

*(2)* Similar provision not included in S. 1128 or H.R. 8.
*(3)* H.R. 8 included a general provision on water quality criteria (sec. 19 of reported bill, sec. 24 of bill as passed).
*(4)* A separate provision in H.R. 8 on grants to protect groundwater quality (sec. 52 of bill as passed) was included in conference report.
*(5)* Separate provisions in H.R. 8 on New York-New Jersey harbor area, Puget Sound, and San Francisco Bay were addressed in section 320 of the conference report.
*(6)* Section numbers shown in brackets refer to Clean Water Act section numbers proposed in the bill.
*(7)* Provision added to S. 1128 during Senate debate.

# TABLE II. COMPARISON OF SECTIONS OF THE WATER QUALITY ACT OF 1987 (PUBLIC LAW 100-4), THE CLEAN WATER ACT (CWA), AS AMENDED, S. 1128 (AS REPORTED), AND H.R. 8 (AS PASSED, 7/23/85)

| | P.L. 100-4 | CWA | S. 1128 | H.R. 8 |
|---|---|---|---|---|
| Short title; table of contents, amendments to FWPCA; definition of Administrator | 1 | | | 1 |
| Limitation on payments | 2 | | | 79 |
| Authorizations of appropriations | 101 | 104,106<br>112,208<br>314,517 | 101 | 2 |
| Small Flows Clearinghouse | 102 | 104(q) | 102 | 9 |
| Chesapeake Bay | 103 | 117 | 121 | 42 |
| Great Lakes | 104 | 118 | 122 | 59 |
| Research on effects of pollutants | 105 | | | 46 |
| Time limit on resolving certain disputes | 201 | 201(p) | | 11 |
| Federal share | 202 | 202 | 203 | 12 |
| Agreement on eligible costs | 203 | 203(a) | | 13(a) |
| Design/build projects | 204 | 203(f) | 204 | 13(b) |
| Grant conditions; user charges on low-income residential users | 205 | 204(a),(b) | 205 | 14 |
| Allotment formula | 206 | 205(a) | 202 | 15(a) |
| Rural set aside | 207 | 205(h) | | 15(e) |
| Innovative and alternative projects | 208 | 205(i) | 205 | 15(f) |
| Regional organization funding | 209 | 205(j) | | 15(g) |
| Marine CSO's and estuaries | 210 | 205(l) | 206 | 10(a) |
| Authorization for construction grants | 211 | 207 | 201(a) | 3 |
| State water pollution control revolving funds | 212 | Title VI | 208 | 16(a) |
| Improvement projects | 213 | | | 66 |
| Chicago tunnel and reservoir project | 214 | | 203 *(1)* | |
| Ad valorem tax dedication | 215 | | 119 | |
| Compliance dates | 301 | 301(b) | 103 | 4 |
| Modification for nonconventional pollutants | 302 | 301(g) | 105 | 17 |
| Discharges into marine waters | 303 | 301(h) | 104 | 18 |
| Filing deadline for treatment works modification | 304 | 301(i) | | 19 |
| Innovative technology compliance deadlines for direct dischargers | 305 | 301(k) | | 21 |
| Fundamentally different factors | 306 | 301(n) | 106 | 22(a) |
| Coal remining operations | 307 | 301(p) | | 23 |
| Individual control strategies for toxic pollutants | 308 | 304 | 107 | 5 |
| Pretreatment standards | 309 | 307 | | 26 |
| Inspection and entry | 310 | 308 | | 27 |
| Marine sanitation devices | 311 | 312 | | 32 |
| Criminal penalties | 312 | 309(c) | 109(e) | 28 |
| Civil penalties | 313 | 309(d) | 109(a) | 29 |
| Administrative penalties | 314 | 309(g) | 109(d) | 30 |
| Clean lakes | 315 | 314 | 123 | 33 |
| Management of nonpoint source pollution | 316 | 319 | 112 | 7, 52 |
| National estuary program | 317 | 320 | 113 | 45 |
| Unconsolidated quaternary aquifer | 318 | | | 51 |
| Stormwater runoff from oil, gas, and mining operations | 401 | 402(l) | 114 | 34(b) |
| Additional pretreatment of conventional pollutants not required | 402 | 402(m) | | 34(c) |
| Partial NPDES program | 403 | 402(n),(c) | | 34(d),(e) |
| Anti-backsliding | 404 | 402(o) | 115 | 34(g) |

### TABLE II. COMPARISON OF SECTIONS OF THE WATER QUALITY ACT OF 1987 (PUBLIC LAW 100-4), THE CLEAN WATER ACT (CWA), AS AMENDED, S. 1128 (AS REPORTED), AND H.R. 8 (AS PASSED, 7/23/85) -- cont.

| | P.L. 100-4 | CWA | S. 1128 | H.R. 8 |
|---|---|---|---|---|
| Municipal and industrial stormwater | 405 | 402(p) | | 34(b) |
| Sewage sludge | 406 | 405 | 116 | 47 |
| Log transfer facilities | 407 | | 126 *(1)* | 34(f) |
| Audits | 501 | 501(d) | | 35 |
| Commonwealth of the Northern Mariana Islands | 502 | 502(3),311(a) | | 36 |
| Agricultural stormwater discharges | 503 | 502(14) | | 37 |
| Protection of U.S. interests in citizen suits | 504 | 505(c) | 109(e) | |
| Judicial review and award of fees | 505 | 509(b),505(d) | 111 | |
| Indian tribes | 506 | 518 | 207 | 40 |
| Definition of point source | 507 | | | 41 |
| Special provisions regarding certain dumping sites | 508 | *(2)* | *(2)* | *(2)* |
| Ocean discharge research project | 509 | | | 49 |
| San Diego, California | 510 | | 32 | 55 |
| Limitation on discharge of raw sewage by New York City | 511 | | 120 | 57 |
| Oakwood Beach & Red Hook Projects, NY | 512 | | | 60 |
| Boston Harbor and adjacent waters | 513 | | | 58,64 |
| Wastewater reclamation demonstration | 514 | | | 63 |
| Des Moines, Iowa | 515 | | | 62 |
| Study of de minimis discharges | 516 | | | 67 |
| Study of effectiveness of innovative and alternative processes and techniques | 517 | | | 68 |
| Study of testing procedures | 518 | | | 70 |
| Study of pretreatment of toxic pollutants | 519 | | | 71 |
| Studies of water pollution problems in aquifers | 520 | | | 72 |
| Great Lakes consumptive use study | 521 | | | 73 |
| Sulfide corrosion study | 522 | | | 74 |
| Study of rainfall induced infiltration into sewer systems | 523 | | | 76 |
| Dam water quality study | 524 | | | 39(f) |
| Study of pollution in Lake Pend Oreille | 525 | | 124 | 78 |

**Note:** Blank, or no section number, indicates no similar provision

*(1)* Provision added to S. 1128 during Senate debate.
*(2)* Similar provision not included in S. 1128 or H.R. 8.

## TABLE III. AMENDMENTS TO THE CLEAN WATER ACT BY PUBLIC LAW 97-117, BY SECTION

| | Clean Water Act, as amended | H.R. 4503, conf. rpt. | S. 1716, as reported | H.R. 4503, as reported |
|---|---|---|---|---|
| **Title II -- Grants for construction of treatment works:** | | | | |
| Eligible categories | 201(g)(1), 211(c) | 2 | | 18 |
| Grants for Steps 1 and 2 | 201(l) | 3(a) | 2 | |
| Mitigation and special processes | 201(m) | 4 | | |
| Combined sewer overflow | 201(n) | 5 | | 7 |
| Capital financing | 201(o) | 6 | | 4 |
| Federal share | 202(a)(1) | 7 | 3,4 | |
| Innovative and alternative processes | 202(a)(2), (4), 205(i),212(1) | 8 | 5, 6, 15 | 7 |
| Combined Step 2 and 3 grants | 203(a) | 9 | 8 | |
| Reserve capacity | 204(a)(5), (c), 201(k) | 10 | 9 | 17, 3 |
| Brand name | 204(a)(6) | 11 | 10 | 8 |
| Engineering performance | 204(d) | 12 | 11 | |
| Allotment formula | 205(c)(2), (e) | 13 | 12 | 5 |
| State administration grants | 205(g)(1) | 14 | 13, 14 | 6 |
| Water quality management planning | 205(j) | 15 | | 9 |
| Convention center | 205(k) | 16 | | 10 |
| Authorization | 207 | 17 | 16 | 11 |
| Field testing | 212(l) | 8(d) | | 12 |
| Water quality priority | 216 | 18 | 17 | 15 |
| Cost effectiveness | 218 | 19 | | 13 |
| State certification | 219 | 20 | | 14 |
| **Title III -- Standards for enforcement:** | | | | |
| Municipal compliance deadline | 301(b)(2)(B), 301(i) | 21 | 19 | |
| Ocean discharges | 301(h), (j) | 22 | | 16 |
| Secondary treatment definition | 304(d) | 23 | 20 | |
| **Subjects which did not amend the Clean Water Act:** | | | | |
| Short title | | 1 | 1 | 1 |
| Revised water quality standards | | 24 | 18 | |
| Needs survey | | 25 | 21 | 20 |
| Judicial notice | | 26 | 19(c) | 19 |
| Bath Township | | 27 | | 21 |

**Note:** Blank, or no section number, indicates no similar provision.

## TABLE IV. COMPARISON OF SECTIONS OF THE MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANT AMENDMENTS OF 1981 (PUBLIC LAW 97-117), THE CLEAN WATER ACT, S. 1716 (AS REPORTED), AND H.R. 4503 (AS REPORTED)

| | P.L. 97-117 | CWA | S. 1716 | H.R. 4503 |
|---|---|---|---|---|
| Short title | 1 | | 1 | 1 |
| Eligible categories | 2 | 201(g)(1),<br>211(c) | | 18 |
| Grants for Steps 1 and 2 | 3 | 201(l) | 2 | |
| Mitigation and special processes | 4 | 201(m) | | |
| Combined sewer overflow | 5 | 201(n) | | 7 |
| Capital financing | 6 | 201(o) | | 4 |
| Federal share | 7 | 202(a)(1) | 3,4 | |
| Innovative and alternative processes | 8 | 202(a)(2),(4)<br>205(i),212(1) | 5,6,15 | 7 |
| Combined Step 2 and 3 grants | 9 | 203(a) | 8 | |
| Reserve capacity | 10 | 204(a)(5), (c),<br>201(k) | 9 | 17, 3 |
| Brand name | 11 | 204(a)(6) | 10 | 8 |
| Engineering performance | 12 | 204(d) | 11 | |
| Allotment formula | 13 | 205 | 12 | 5 |
| State administration grants | 14 | 205(g) | 13, 14 | 6 |
| Water quality management planning | 15 | 205(j) | | 9 |
| Convention center | 16 | 205(k) | | 10 |
| Authorization | 17 | 207 | 16 | 11 |
| Water quality priority | 18 | 216 | 17 | 15 |
| Cost effectiveness | 19 | 218 | | 13 |
| State certification | 20 | 219 | | 14 |
| Municipal compliance deadline | 21 | 301 | 19 | |
| Ocean discharges | 22 | 301(h),(j) | | 16 |
| Secondary treatment definition | 23 | 304(d) | 20 | |
| Revised water quality standards | 24 | | 18 | |
| Needs survey | 25 | | 21 | 20 |
| Judicial notice | 26 | | 19(c) | 19 |
| Bath Township | 27 | | | 21 |

**Note:** Blank, or no section number, indicates no similar provision.

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  - House Report (99-1004) 702-705, 711, 746, **790-793**
  - House Debate: July 1985 890, 905, 924-925, 947, 1022-1023, 1030-1032, 1034, 1043-1044
  - House Report (99-189) **1089-1092**, 1133-1134, 1145-1150
  - H.R. 8, as reported, July 2, 1985 1218-1221, 1223
  - Senate Debate: June 1985 1290-1292, 1294-1304, **1315-1316**, 1317, 1320, 1321-1323, 1325, **1360-1384**, **1394-1395**, 1407, 1415-1417, 1419
  - Senate Report (99-50) 1429, **1463-1464**,

**1476-1485, 1491-1492**, 1495-1496, 1504-1508
S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . 1590-1591, 1622-1623, 1627-1628, 1639-1640
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House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . **1849-1851**, 1888-1891
H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . .1952-1954
Public Law 97-117 (sec. 8c, 13a, 13b, 14, 15, 16) . . . . . . . . . . 2293-2294, 2295-2298
House Debate: December 1981 . . . . . . . . . . . . . . . . 2308, **2309**, **2311-2312**, 2314, **2315**
Senate Debate: December 1981 . . . . . . . . . . . . . . . . 2324, 2330
House Report (97-408) . . . . . . . . . . . . . . . . . . 2336, 2338-2340, **2346-2349**
House Debate: October 1981 . . . . . . . . . . . . . . . 2364, 2365-2366, 2368, 2371, 2372, 2374, 2376, 2385, 2388-2389
House Report (97-270) . . . . . . . . . . . . . . . . . . . . . . **2412-2414**, **2415-2416**, 2434-2435
H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . .2442-2445
Senate Debate: October 1981 . . . . . . . . . . . . . 2456, 2458-2459, 2460, 2465-2466
Senate Report (97-204) . . . . . . . . . . . . . . . . . . . . . . . **2480-2482**
S. 1716, as reported, October 7, 1981 . . . . . . . . . . . . . .2497-2501
House Hearings 1981--Administration Testimony . 2483-2483, 2485, 2502, 2510, 2514
House Debate: May 1981 . . . . . . . . . . . . . . . . . 2550, 2551, 2555
House Report (97-90) . . . . . . . . . . . . . . . . . . . . . . 2573-2574, 2577-2578
H.R. 2957, as reported, May 19, 1981 . . . . . . . . . . . . .2580-2581
Public Law 96-483 (sec. 11) . . . . . . . . . . . . . . . . . . . . . . . . 2588
Senate Debate: October 1980 . . . . . . . . . . . . . . . . . . . 2591
House Debate: October 1980 . . . . . . . . . . . . . . . . . . 2594, 2597, 2598, 2601

## SECTION 206: REIMBURSEMENT AND ADVANCED CONSTRUCTION

Source:

Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 54-56
Public Law 96-483 (sec. 5) . . . . . . . . . . . . . . . . . . . . . . . . . .2586-2587
Senate Debate: October 1980 . . . . . . . . . . . . . . .2590-2591, 2593
House Debate: October 1980 . . . . . . . . . . . . . . . 2594-2595, 2598, 2601
House Report (96-983) . . . . . . . . . . . . . . . . . . . .2643, **2647**, 2655
H.R. 6667, as reported, May 15, 1980 . . . . . . . . . . . . . 2666

## SECTION 207: AUTHORIZATION

Source:
- Clean Water Act, as amended . . . . . 56
- Public Law 100-4 (sec. 211) . . . . . 243
  - Senate Debate: February 1987 . . . . . 313, 336
  - House Debate: February 1987 . . . . . 345, 353
  - President's Veto of H.R. 1 . . . . . 359
  - Senate Debate: January 1987 . . . . . 368, 424, 460, 494
  - House Debate: January 1987 . . . . . 547, 558, 569
  - President's Veto of S. 1128 . . . . . 615
  - Senate Debate: October 1986 . . . . . 623, 635
  - House Debate: October 1986 . . . . . 663, 667
  - House Report (99-1004) . . . . . 705, **793**
  - House Debate: July 1985 . . . . . 878, 918, 1030, 1036
  - House Report (99-189) . . . . . **1077**, 1148
  - H.R. 8, as reported, July 2, 1985 . . . . . 1183
  - Senate Debate: June 1985 . . . . . 1315, 1415
  - Senate Report (99-50) . . . . . 1430, **1476**, 1508
  - S. 1128, as reported, May 14, 1985 . . . . . 1621-1622
  - Senate Hearings 1985--Administration Testimony . 1644, 1650-1651
  - House Debate: June 1984 . . . . . 1700, 1701, 1703-1704, 1720, 1743
  - House Report (98-827) . . . . . **1839**, 1891
  - H.R. 3282, as reported, June 6, 1984 . . . . . 1928-1929
- Public Law 97-117 (sec. 17) . . . . . 2298
  - House Debate: December 1981 . . . . . 2308, 2313, 2317
  - Senate Debate: December 1981 . . . . . 2324, 2328
  - House Report (97-408) . . . . . 2340, **2349**
  - House Debate: October 1981 . . . . . 2363, 2367, 2372, 2389
  - House Report (97-270) . . . . . **2416**, 2436
  - H.R. 4503, as reported, October 9, 1981 . . . . . 2446
  - Senate Debate: October 1981 . . . . . 2458, 2459, 2466
  - Senate Report (97-204) . . . . . 2472, **2482-2483**
  - S. 1716, as reported, October 7, 1981 . . . . . 2501
  - House Hearings 1981--Administration Testimony . . . . 2527-2528

## SECTION 208: AREAWIDE WASTE TREATMENT MANAGEMENT

Source:
- Clean Water Act, as amended . . . . . 56-64
- Public Law 100-4 (sec. 101d, 101e) . . . . . 231
  - Senate Debate: January 1987 . . . . . 419, 460
  - House Debate: January 1987 . . . . . 537, 547, 563
  - House Report (99-1004) . . . . . 692, **779-781**

- House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . 917, 1036
- House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . **1076**, 1149
- H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . 1181-1182
- House Debate: June 1984 . . . . . . . . . . . . . . . 1700, 1719, 1743
- House Report (98-827) . . . . . . . . . . . . . . . . . . . . 1838, 1891-1892
- H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . . 1927

Public Law 96-483 (sec. 1d, 1e) . . . . . . . . . . . . . . . . . . . . . . . 2585
- Senate Debate: October 1980 . . . . . . . . . . . . . . . . . . . . . 2590
- House Debate: October 1980 . . . . . . . . . . . . . . 2598, 2599, 2601
- Senate Debate: June 1980 . . . . . . . . . . . . . . . 2603, 2615, 2618
- Senate Report (96-744) . . . . . . . . . . . . . . . . . . . . . . . . . 2621-2622
- S. 2725, as reported, May 15, 1980 . . . . . . . . . . . . . . . 2637
- House Report (96-983) . . . . . . . . . . . . . . . . . 2642, **2643-2644**, 2655-2666
- H.R. 6667, as reported, May 15, 1980 . . . . . . . . . 2661-2662, 2664

## SECTION 211: SEWAGE COLLECTION SYSTEMS

Source:

Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 65

Public Law 100-4 (sec. 206d) . . . . . . . . . . . . . . . . . . . . . . . . 242
- Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . . . . 423
- House Debate: January 1987 . . . . . . . . . . . . . . . . . . . . . 568
- House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . . . . 704

Public Law 97-117 (sec. 2b) . . . . . . . . . . . . . . . . . . . . . . . . 2291
- House Report (97-408) . . . . . . . . . . . . . . . . . . . . . . . . . 2324

## SECTION 212: DEFINITIONS

Source:

Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 65-66

Public Law 97-117 (sec. 8d) . . . . . . . . . . . . . . . . . . . . . . . . 2294
- House Debate: December 1981 . . . . . . . . . . . . 2308, 2314, 2318, **2319-2320**
- House Report (97-408) . . . . . . . . . . . . . . . . . . . . 2336, **2349-2350**
- House Debate: October 1981 . . . . . . . . . . . . . . 2372, 2386, 2389
- House Report (97-270) . . . . . . . . . . . . . . . . . . . . . . **2416-2417**, 2436-3437
- H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . . 2446

## SECTION 213: LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

Source:

Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 66-67

Public Law 96-483 (sec. 2e) . . . . . . . . . . . . . . . . . . . . . . . . 2586
- Senate Debate: October 1980 . . . . . . . . . . . . . . . . . . . . . 2590
- House Debate: October 1980 . . . . . . . . . . . . . . . . . . . . . 2601
- Senate Debate: June 1980 . . . . . . . . . . . . . . . . . . . . . . . 2619

S. 2725, as reported, May 15, 1980 . . . . . . . . . . . . . . . 2640
House Report (96-983) . . . . . . . . . . . . . . . . . . . . . . 2643, 2656
H.R. 6667, as reported, May 15, 1980 . . . . . . . . . . . 2663, 2665

## SECTION 216: DETERMINATION OF PRIORITY

Source:
Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . . 67-68
Public Law 97-117 (sec. 18) . . . . . . . . . . . . . . . . . . . . . . . . . 2298
House Debate: December 1981 . . . . . . . . . . . . . . . . . 2308, 2315
House Report (97-408) . . . . . . . . . . . . . . . . . . . . . . . . 2340, 2351
House Debate: October 1981 . . . . . . . . . . . . . . 2366, 2372, 2390
House Report (97-270) . . . . . . . . . . . . . . . . . . . . . . **2418-2419**, 2429-2430, 2438
H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . . 2449
Senate Debate: October 1981 . . . . . . . . . . . . . . 2457, 2459, 2466
Senate Report (97-204) . . . . . . . . . . . . . . . . . . . . . . . . **2483**
S. 1716, as reported, October 7, 1981 . . . . . . . . . . . . . . 2502
House Hearings 1981--Administration Testimony 2510-2511, 2531

## SECTION 218: COST-EFFECTIVENESS

Source:
Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . . 68-69
Public Law 97-117 (sec. 19) . . . . . . . . . . . . . . . . . . . . . . . . .2298-2299
House Debate: December 1981 . . . . . . . . . . . . . . . . . .2308-2309, **2312-2313**
House Report (97-408) . . . . . . . . . . . . . . . . . . . 2341-2342, **2350**
House Debate: October 1981 . . . . . . . . . . . . . . . . . . . . .2368, 2372, 2389-2390, **2395-2397**
House Report (97-270) . . . . . . . . . . . . . . . . . . . . **2417-2418**, 2437
H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . . .2446-2448

## SECTION 219: STATE CERTIFICATION OF PROJECTS

Source:
Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . . 69
Public Law 97-117 (sec. 20) . . . . . . . . . . . . . . . . . . . . . . . . . 2299
House Debate: December 1981 . . . . . . . . . . . . . . . . . 2309, 2312
House Report (97-408) . . . . . . . . . . . . . . . . . . . . . .2342, **2350-2351**
House Debate: October 1981 . . . . . . . . . . . . . . . . . . . . . 2372, 2390
House Report (97-270) . . . . . . . . . . . . . . . . . . . **2418**, 2437-2438
H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . . .2448-2449

# TITLE III--STANDARDS AND ENFORCEMENT

## SECTION 301: EFFLUENT LIMITATIONS

Source:

Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . 69-83

Public Law 100-4 (sec. 301, 302, 303, 304, 305, 306, 307) . . . . . 251-259

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House Debate: February 1987 . . . . . . . . . . . . . . . . . . . 353

Senate Debate: January 1987 . . . . . . . . . . . . .362, **363**, **365-366**, **367-368**, **370-373**, **376**, 427-428, 428-429, 429-430, 430-431, 461, **466-467**, 491, 495

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House Debate: October 1986 . . . . . . . . . . . . . . . 659, **665-666**, **668-669**, **673-674**, **674-675**, **676-677**, **677-678**

House Report (99-1004) . . . . . . . . . . . . . . . . . . 714-722, **803-814**

House Debate: July 1985 . . . . . . . . . . . . . . . . . . 880, 887, 891, 892, 893, 905, 906, **911-912**, 918, 926, 1014-1015, 1036-1037, 1045-1047

House Report (99-189) . . . . . . . . . . . . . . . . . . **1077**, **1095-1097**, **1131-1132**, 1152-1153, 1154

H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . 1183-1184, 1230-1232

Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . **1305-1307**, **1307-1308**, 1320-1321, 1323-1324, **1326**, 1332-1333, 1346-1347, 1349, **1350-1351**, 1390, 1398-1399, 1399-1400

Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . . **1433-1444**, 1509-1514

S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . . .1548-1557

Senate Hearings 1985--Administration Testimony 1648, 1649-1650, 1679-1680, 1681-1683

House Debate: June 1984 . . . . . . . . . . . . . . . . 1700, 1702, 1710, 1710, 1715, 1720, 1726-1727, 1735, 1738, 1743, 1751-1752, 1762-1763, 1766, 1769, 1776, 1798-1800

House Report (98-827) . . . . . . . . . . . . . . . . . . **1839**, **1856-1858**, 1894-1896, 1917

H.R. 3282, as reported, June 6, 1984 . . . . . . . . . .1929-1930, 1962

House Hearings 1983--Administration Testimony . 2002, 2003-2004, 2008, 2009, 2011, 2012-2013, 2017, 2019-2020, 2022-2023, 2029-2030, 2033-2034, 2038-2039, 2045-2046, 2058-2061, 2065-2069

Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . 2081-2082, **2083-2086**, **2090-2093**, 2117-2121

S. 431, as reported, September 21, 1983 . . . . . . . . . . 2143-2144,

| | |
|---|---|
| | 2162-2166 |
| Senate Hearings 1982--Administration Testimony | 2232-2233, 2235, 2238-2240, 2242-2243, 2248-2249 |
| Public Law 97-440 | 2259-2260 |
| House Debate: December 1982 | **2261-2264** |
| Senate Debate: December 1982 | **2265-2266** |
| Senate Report (97-686) | **2267-2271** |
| House Debate: September 1982 | **2274-2275**, 2276, **2277-2278** |
| House Report (97-868) | **2279-2281**, 2283-2284 |
| H.R. 7159, as reported, September 23, 1982 | 2285-2288 |
| Public Law 97-117 (sec. 21, 22) | 2300 |
| House Debate: December 1981 | 2309, **2313-2314**, 2317, 2318 |
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| House Report (97-408) | 2340, 2342, 2342-2343, **2351-2352**, **2358** |
| House Debate: October 1981 | 2356, 2363, 2366, 2372-2373, **2375-2376**, 2385-2386, 2387-2388, 2390, **2392-2393**, 2401 |
| House Report (97-270) | **2419-2420**, 2431, 2438-2439 |
| H.R. 4503, as reported, October 9, 1981 | 2449-2450 |
| Senate Debate: October 1981 | 2456, 2459, 2460, 2466 |
| Senate Report (97-204) | **2484** |
| S. 1716, as reported, October 7, 1981 | 2503 |

### SECTION 302: WATER QUALITY RELATED EFFLUENT LIMITATIONS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 83-84 |
| Public Law 100-4 (sec. 308e) | 262-262 |
| Senate Debate: January 1987 | 431-432 |
| House Debate: January 1987 | 577-578 |
| House Report (99-1004) | 724-725, **814-819** |
| Senate Report (99-50) | **1445**, 1514-1515 |
| S. 1128, as reported, May 14, 1985 | 1560-1561 |
| Senate Report (98-233) | **2094-2095**, 2121-2122 |
| S. 431, as reported, September 21, 1983 | 2171-2172 |

### SECTION 303: WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 84-89 |

Public Law 100-4 (sec. 308d, 404b) . . . . . . . . . . . . . . . . . . 261, 290-291
- Senate Debate: January 1987 . . . . . . . . . . . . . . . . . 431, 442-443
- House Debate: January 1987 . . . . . . . . . . . . . . . . . 577, 591
- House Report (99-1004) . . . . . . . . . . . . . . . . . . .724, 754-755, **814-819, 842-846**
- House Debate: July 1985 . . . . . . . . . . . . . . . . . . . 1016, 1024
- Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . 1400, 1409
- Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . **1444-1445, 1466-1467**, 1515-1516
- S. 1128, as reported, May 14, 1985 . . . . . . . . . . .1559, 1597-1598
- Senate Report (98-233) . . . . . . . . . . . . . . . . . . .2094, 2122-2123

## SECTION 304: INFORMATION AND GUIDELINES

Source:

Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 89-97

Public Law 100-4 (sec. 101f, 308a, 308c, 308f, 315c, 319e) . . .231, 260-261, 262, 274, 283
- Senate Debate: February 1987 . . . . . . . . . . . . . . . .321, 328-329, 336
- House Debate: February 1987 . . . . . . . . . . . . . . . . . . 345, 353
- Senate Debate: January 1987 . . . . . . . . . . . . . . . 362, 363, 402, 419, 431, 432, 439, 460, 461, 472, 504, 505-506
- House Debate: January 1987 . . . . . . . . . . . . . 529, 559, 576-577, 578, 583, 587
- Senate Debate: October 1986 . . . . . . . . . . . . . . . . . . 626
- House Debate: October 1986 . . . . . . . . . . . . . . . . . . 673
- House Report (99-1004) . . . . . . . . . . . . . . . . . 692, 722-723, 723-724, 725, 737, 746, **779-781, 814-819, 828-829**
- House Debate: July 1985 . . . . . . . . . . . . . . . . . 879, 917, 918-919, 922, 1006, 1015-1016, 1022, 1036, 1037, 1041
- House Report (99-189) . . . . . . . . . . . . . . . . . . **1076, 1077-1079, 1083-1084**, 1138, 1155-1157
- H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . 1182, 1185-1189, 1207
- Senate Debate: June 1985 . . . . . . . . . . . . . . . **1308-1309**, 1318, 1324, 1400-1401, 1407
- Senate Report (99-50) . . . . . . . . . . . . . . . . . . **1443-1446, 1463**, 1516-1517
- S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . .1558-1559, 1561-1562, 1590
- Senate Hearings 1985--Administration Testimony . . . . . 1656
- House Debate: June 1984 . . . . . . . . . . . . . . . . 1700, 1701, 1704, 1719-1720, 1720-1721, 1724, 1727, 1743, 1746, 1752, 1795
- House Report (98-827) . . . . . . . . . . . . . . . . . . . . . 1839, **1840, 1845-1846, 1858**, 1883, 1897-1898
- H.R. 3282, as reported, June 6, 1984 . . . . . . . . 1928, 1931-1932, 1948-1949, 1963

  - House Hearings 1983--Administration Testimony . . . . . . 2005, 2024-2025, 2044
  - Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . . **2083, 2093,** 2124-2125
  - S. 431, as reported, September 21, 1983 . . . . . . 2166-2167, 2171, 2172, 2173
  - Senate Report (98-282) . . . . . . . . . . . . . . . . . . **2207-2208**, 2212
  - S. 2006, as reported, October 26, 1983 . . . . . . . . . . . . . 2230
- Public Law 97-117 (sec. 23 . . . . . . . . . . . . . . . . . . . . . . . . 2300
  - House Debate: December 1981 . . . . . . . . . . . . . . . . . 2309, 2317
  - House Report (97-408) . . . . . . . . . . . . . . . . . . . . . . . 2343, **2354**
  - Senate Debate: October 1981 . . . . . . . . . . . . . . . . . 2459
  - Senate Report (97-204) . . . . . . . . . . . . . . . . . . . . . . . **2484-2485**
  - S. 1716, as reported, October 7, 1981 . . . . . . . . . . . . . 2504

## SECTION 307: TOXIC AND PRETREATMENT EFFLUENT STANDARDS

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 100-103
- Public Law 100-4 (sec. 309a) . . . . . . . . . . . . . . . . . . . . . 263
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . 432, 461
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . 578
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . . .726, **819-820**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . .882-883, 927, 949-956, 1048
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . **1099-1100,** 1128-1130, 1157
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . .1233-1234
  - Senate Hearings 1985--Administration Testimony . . . . . 1660
  - House Debate: June 1984 . . . . . . . . . . . . . . . . . . . . . . .1707-1710, 1727, 1753
  - House Report (98-827) . . . . . . . . . . . . . . . . . . **1862-1863**, 1899, 1916, 1919-1920, 1922-1923
  - H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . 1966
  - House Hearings 1983--Administration Testimony . . . . . 2002-2003, 2008, 2010, 2013-2014, 2020-2022, 2039, 2040-2041, 2044-2045, 2046, 2052-2056, 2061-2062
  - Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . . . 2080-2082, 2109-2112
  - Senate Hearings 1982--Administration Testimony . . . . 2235-2236, 2245-2246, 2250-2253

## SECTION 308: INSPECTIONS, MONITORING, AND ENTRY

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 103-104
- Public Law 100-4 (sec. 310a, 310b, 406d) . . . . . . . . . . . . . .263-264, 295

| | |
|---|---|
| Senate Debate: February 1987 | 338 |
| Senate Debate: January 1987 | 432-433, 445, 461 |
| House Debate: January 1987 | 578, 595 |
| House Report (99-1004) | 726-727, 760, **820** |
| House Debate: July 1985 | 893, 906, 1048 |
| Senate Debate: June 1985 | 1410 |
| Senate Report (99-50) | 1518 |
| S. 1128, as reported, May 14, 1985 | 1602 |

## SECTION 309: FEDERAL ENFORCEMENT

Source:

| | |
|---|---|
| Clean Water Act, as amended | 104-114 |
| Public Law 100-4 (sec. 312, 313a, 313b, 313c, 314a, 314c) | 264-267, 268-271 |
| Senate Debate: February 1987 | 337, 338 |
| House Debate: February 1987 | 353 |
| Senate Debate: January 1987 | 362, **367, 376,** 433-434, 434-436, 461 |
| House Debate: January 1987 | 547, 559, 579-580, 580-582 |
| President's Veto of S. 1128 | 615 |
| Senate Debate: October 1986 | **632**, 634, 673 |
| House Report (99-1004) | 727-730, 731-734, **821-828** |
| House Debate: July 1985 | 879, 887, 893-894, 906, 915, 927-928, 928-929, 1017-1019, 1048-1050 |
| House Report (99-189) | **1100-1104,** 1158-1162 |
| H.R. 8, as reported, July 2, 1985 | 1234-1245 |
| Senate Debate: June 1985 | **1309-1310,** 1330-1331, **1350-1351, 1353-1361, 1388-1390**, 1401-1404 |
| Senate Report (99-50) | **1446-1451,** 1519-1523 |
| S. 1128, as reported, May 14, 1985 | 1563-1574 |
| Senate Hearings 1985--Administration Testimony | 1646-1648, 1675-1676, 1693-1696 |
| House Debate: June 1984 | 1701, 1704, 1721, 1727-1729, 1743, 1753-1755 |
| House Report (98-827) | **1840-1841, 1863-1865**, 1899-1903 |
| H.R. 3282, as reported, June 6, 1984 | 1933, 1967-1974 |
| House Hearings 1983--Administration Testimony | 2007-2008, 2010, 2014-2015, 2027-2029 |
| Senate Report (98-233) | **2096-2097,** 2125-2128, 2137 |
| S. 431, as reported, September 21, 1983 | 2154, 2174-2179 |
| Senate Hearings 1982--Administration Testimony | 2253 |

## SECTION 311: OIL AND HAZARDOUS SUBSTANCE LIABILITY

Source:

- Clean Water Act, as amended . . . . . . . . . . 116-128
- Public Law 100-4 (sec. 502b) . . . . . . . . . . 297
  - Senate Debate: January 1987 . . . . . . . . . . 445
  - House Debate: January 1987 . . . . . . . . . . 594
  - House Report (99-1004) . . . . . . . . . . 761, **851-852**
  - House Debate: July 1985 . . . . . . . . . . 931, 1055
  - House Report (99-189) . . . . . . . . . . **1110-1111**, 1162
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . 1260
- Public Law 96-483 (sec. 8) . . . . . . . . . . 2587
  - Senate Debate: October 1980 . . . . . . . . . . 2591
  - House Debate: October 1980 . . . . . . . . . . 2590, 2602
  - Senate Debate: June 1980 . . . . . . . . . . **2613-2614**, 2619

## SECTION 312: MARINE SANITATION DEVICES

Source:

- Clean Water Act, as amended . . . . . . . . . . 128-133
- Public Law 100-4 (sec. 311) . . . . . . . . . . 264
  - Senate Debate: February 1987 . . . . . . . . . . 338
  - Senate Debate: January 1987 . . . . . . . . . . 433, 461
  - House Debate: January 1987 . . . . . . . . . . 578, 579
  - House Report (99-1004) . . . . . . . . . . 727, **820**
  - House Debate: July 1985 . . . . . . . . . . 894, 906, **913**, 1051

## SECTION 314: CLEAN LAKES

Source:

- Clean Water Act, as amended . . . . . . . . . . 134-137
- Public Law 100-4 (sec. 101g, 315a, 315b, 315d) . . . . . . . . . . 231, 271-274
  - House Debate: February 1987 . . . . . . . . . . 346, 353, 364
  - Senate Debate: January 1987 . . . . . . . . . . 362, 379, 382, 385, 402, 419, 436-437, 460, 461, 481, 504
  - House Debate: January 1987 . . . . . . . . . . 529, **533-534**, 538, 547, 555, 559, 563, 582-583
  - Senate Debate: October 1986 . . . . . . . . . . 637
  - House Debate: October 1986 . . . . . . . . . . 664, 667, 670, 673, 687
  - House Report (99-1004) . . . . . . . . . . 693, 735-737, **779-781, 828-829**
  - House Debate: July 1985 . . . . . . . . . . 878, 887-888, 916, 917, 929-930, **997-999**, 1010, 1013, 1029-1030, 1036, 1051, 1052-1053
  - House Report (99-189) . . . . . . . . . . **1076, 1104-1107**, 1162, 1163
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . 1182, 1246,

| | |
|---|---|
| | 1248-1254 |
| Senate Debate: June 1985 | 1305, 1315, 1398, 1414 |
| Senate Report (99-50) | **1432, 1475**, 1523-1524 |
| S. 1128, as reported, May 14, 1985 | 1547-1548, 1620-1621 |
| Senate Hearings 1985--Administration Testimony | 1673-1675, 1692 |
| House Debate: June 1984 | 1701, 1704, 1710, 1713, 1720, 1729-1730, 1739-1740, 1743, 1755-1756 |
| House Report (98-827) | 1839, **1865-1868**, 1903-1906 |
| H.R. 3282, as reported, June 6, 1984 | 1928, 1974-1980 |
| Senate Report (98-233) | 2088, 2128 |
| S. 431, as reported, September 21, 1983 | 2140, 2155 |
| Public Law 96-483 (sec. 1f) | 2585 |
| Senate Debate: October 1980 | 2590 |
| House Debate: October 1980 | 2598, 2599, 2601 |
| Senate Debate: June 1980 | 2603, 2618 |
| Senate Report (96-744) | 2722 |
| S. 2725, as reported, May 15, 1980 | 2637-2638 |
| House Report (96-983) | 2642, 2644, 2658 |
| H.R. 6667, as reported, May 15, 1980 | 2662, 2664 |

## SECTION 319: NONPOINT SOURCE MANAGEMENT PROGRAM

Source:

| | |
|---|---|
| Clean Water Act, as amended | 139-148 |
| Public Law 100-4 (sec. 316a) | 274-287 |
| Senate Debate: February 1987 | 313-314, 318, 321, 322-323, 325 |
| House Debate: February 1987 | 353 |
| President's Veto of H.R. 1 | 359-360 |
| Senate Debate: January 1987 | **373-374, 385-391**, 402, 411, 437-439, **458-459**, 461, 463, 466, 468, 483-484, 494, 497-499, 501 |
| House Debate: January 1987 | 537-538, 547, 558-559, 583-587 |
| President's Veto of S. 1128 | 615 |
| Senate Debate: October 1986 | 619, 624, **629, 639-645, 648-649** |
| House Debate: October 1986 | 664, 667, 670, 680-684 |
| House Report (99-1004) | 737-746, **830-834, 865-866** |
| House Debate: July 1985 | 878, 916, 919-922, **1005-1007**, 1020-1022, 1038-1041 |

| | |
|---|---|
| House Report (99-189) | **1079-1083**, 1163-1170 |
| H.R. 8, as reported, July 2, 1985 | 1190-1207 |
| Senate Debate: June 1985 | **1312-1313**, 1318, 1324-1326, 1394, **1395-1396**, 1405-1407 |
| Senate Report (99-50) | **1454-1464**, 1524-1529 |
| S. 1128, as reported, May 14, 1985 | 1579-1590 |
| Senate Hearings 1985--Administration Testimony | 1665-1666 |
| House Debate: June 1984 | 1701, 1704, 1721-1724, 1744-1746, 1793-1795, 1798, 1803, 1804-1805 |
| House Report (98-827) | **1841-1845**, 1906-1911 |
| H.R. 3282, as reported, June 6, 1984 | 1934-1948 |
| House Hearings 1983--Administration Testimony | 2005-2007, 2025-2027, 2040, 2042-2044, 2062-2063, 2069-2070 |
| Senate Report (98-233) | 2101, 2128 |
| S. 431, as reported, September 21, 1983 | 2185 |
| Senate Report (98-282) | **2199-2207**, 2212-2216 |
| S. 2006, as reported, October 26, 1983 | 2218-2228 |

## SECTION 320: NATIONAL ESTUARY PROGRAM

Source:

| | |
|---|---|
| Clean Water Act, as amended | 148-152 |
| Public Law 100-4 (sec. 317b) | 282-287 |
| Senate Debate: February 1987 | 336 |
| House Debate: February 1987 | 353 |
| Senate Debate: January 1987 | 362, 366, 385, 402, 439-441, 459, 461, 490, 494-495, 504 |
| House Debate: January 1987 | 529, **542**, **553-554**, 555, 560, 588-589 |
| Senate Debate: October 1986 | 624, 637, 652 |
| House Debate: October 1986 | 659, 669, 671 |
| House Report (99-1004) | 747-751, **834-839** |
| House Debate: July 1985 | 884, 898-899, 907, **934-946**, 1023-1024, 1059-1060 |
| Senate Debate: June 1985 | **1313**, **1341-1344**, 1407-1408 |
| Senate Report (99-50) | **1464-1465**, 1529-1531 |
| S. 1128, as reported, May 14, 1985 | 1591-1595 |
| House Debate: June 1984 | 1710, 1718, 1735-1736, 1763-1764, 1769, 1772-1773, 1828-1829 |

# TITLE IV--PERMITS AND LICENSES

## SECTION 402: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 155-163
- Public Law 100-4 (sec. 401, 402, 403, 404a, 404d, 405) . . . . . . . 287-293
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . . 336, 337
  - House Debate: February 1987 . . . . . . . . . . . . . . . . . . 351-352, 353
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . 362, **368**, 385, **391-392**, 441-442, 443, 461, 494, 495-496, **499**
  - House Debate: January 1987 . . . . . . . . . . . . . . . **528-529, 532,** 535, **538, 543, 559-560**, 589-592
  - Senate Debate: October 1986 . . . . . . . . . . . . . . . **617-618**, 624, 625, 632, **634-635**, 639, **646-647, 649**
  - House Debate: October 1986 . . . . . . . . . . . . . . . . . **665, 668, 669,** 672-673, 675, **678-679**, 684
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . 751-757, **841-847,** 866-867, 871-872
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . **879,** 883-884, 894, 895, 906-907, 930-931, **999, 1001**, 1010, 1016-1017, 1019-1020, 1024-1025, 1053-1055
  - House Report (99-189) . . . . . . . . . . . . . . . . . . **1107-1110, 1131,** 1133, 1135-1136, 1171-1173
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . . 1254-1259
  - Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . 1310-1311, **1313-1314**, 1320, **1326-1327, 1360, 1386-1387**, 1401, 1404, 1408-1409
  - Senate Report (99-50) . . . . . . . . . . . . . . . . . . **1446, 1451-1452, 1465-1467**, 1532-1534
  - S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . 1562-1563, 1574-1576, 1595-1597
  - Senate Hearings 1985--Administration Testimony . . . . . 1648, 1666-1667, 1668-1669
  - House Debate: June 1984 . . . . . . . . . . . . . . . . . 1702, 1707, 1711, 1712, 1713, 1730-1732, 1751-1757, 1769, 1774, 1775
  - House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . **1868-1871,** 1911-1914, 1917
  - H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . . 1981-1985
  - House Hearings 1983--Administration Testimony . . . . . . 2008, 2010-2011, 2014, 2016
  - Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . **2096-2098, 2102-2103**, 2130-2132
  - S. 431, as reported, September 21, 1983 . . . . . . 2150-2152, 2173, 2179-2181, 2185-2186
  - Senate Hearings 1982--Administration Testimony . . . 2235-2236, 2249-2250

### SECTION 404: PERMITS FOR DREDGED OR FILL MATERIAL

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . 164-172
- Public Law 100-4 (sec. 313d) . . . . . . . . . . . . . . . . . . . . . . . 267-268
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . . 434
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . 580
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . 730-731, **821-828**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . 956-958, 1017
  - Senate Debate: June 1985 . . . . . . . . . . . . . . . . . 1388-1390, 1401
  - Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . . . . . 1534-1535
  - S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . . 1564
  - House Report (98-827) . . . . . . . . . . . . . . . . . . . . 1835-1837, 1921
  - House Hearings 1983--Administration Testimony . . . . 2047-2051

### SECTION 405: DISPOSAL OF SEWAGE SLUDGE

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . 172-175
- Public Law 100-4 (sec. 406a, 406b, 406c, 406f) . . . . . . . . . . 293-295, 296
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . 338
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . 443-445, 461
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . 529, 592-593
  - Senate Debate: October 1986 . . . . . . . . . . . . . . . . . . **619-621**
  - House Debate: October 1986 . . . . . . . . . . . . . . . . . . . 673
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . 757-760, **847-850**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . . 900, 907, 1025, 1061
  - Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . . 1314, 1326, 1409-1410
  - Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . . . . **1467-1469**, 1535-1537
  - S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . 1598-1602
  - Senate Hearings 1985--Administration Testimony 1671-1672, 1677
  - House Debate: June 1984 . . . . . . . . . . . . . . . . . . . . . **1817-1820**
  - Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . **2086-2087**, **2102-2103**, 2132-2134
  - S. 431, as reported, September 21, 1983 . . . . . . . . . . 2186-2189

## TITLE V--GENERAL PROVISIONS

### SECTION 501: ADMINISTRATION

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . 175-176
- Public Law 100-4 (sec. 501) . . . . . . . . . . . . . . . . . . . . . . . 297
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . 445, 462

  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . . 594
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . . . 761, **851**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 931, 1055
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . . **1110**, 1173
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . . 1260

## SECTION 502: GENERAL DEFINITIONS

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 176-178
- Public Law 100-4 (sec. 502a, 503) . . . . . . . . . . . . . . . . . . . 297
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . . 338
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . . . 445, 462
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . 528, 538, 594
  - House Debate: October 1986 . . . . . . . . . . . . . . . . . . . . 672
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . 761, **851-852**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 931, 1055
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . **1110-1111**, 1174
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . . 1260
  - House Debate: June 1984 . . . . . . . . . . . . . . . . . . 1731, 1757-1758
  - House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . . **1871**, 1914
  - H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . . 1985
  - House Hearings 1983--Administration Testimony . . . . . 2009, 2012

## SECTION 505: CITIZEN SUITS

Source:

- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 179-180
- Public Law 100-4 (sec. 406d, 504, 505c) . . . . . . . . . . . . . 295, 297, 298
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . . 338
  - Senate Debate: January 1987 . . . . . . . . . . . . . . **367**, 445-446, 462
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . . 594-595
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . 760, 762, 763, **852-853**, 867-868
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 895, 907, 1002-1004, 1026, 1071
  - Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . . 1314, **1351**, 1411
  - Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . . . . 1471, 1538
  - S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . 1579, 1602, 1605-1606
  - Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . . . **2100-2101**, 2104-2105, 2107-2108, 2134
  - S. 431, as reported, September 21, 1983 . . . . . . . . . . 2185, 2191

## SECTION 509: ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Source:

| | |
|---|---|
| Clean Water Act, as amended | 183-185 |
| Public Law 100-4 (sec. 308b, 406d, 505) | 261, 295, 297-298 |
| Senate Debate: January 1987 | 431, 445, 446, 462 |
| House Debate: January 1987 | 577, 594-595 |
| House Report (99-1004) | 723, 760, 762-763, **814-819, 852-853** |
| House Debate: July 1985 | 919, 1020, 1037 |
| House Report (99-189) | 1174 |
| H.R. 8, as reported, July 2, 1985 | 1189 |
| Senate Debate: June 1985 | **1311-1312**, 1404-1405, 1410 |
| Senate Report (99-50) | **1452-1545**, 1538-1539 |
| S. 1128, as reported, May 14, 1985 | 1576-1579, 1602 |
| House Debate: June 1984 | 1721, 1743 |
| House Report (98-827) | **1840**, 1914 |
| H.R. 3282, as reported, June 6, 1984 | 1932-1933 |
| Senate Report (98-233) | **2099-2101**, 2134-2136 |
| S. 431, as reported, September 21, 1983 | 2153, 2182-2184 |

## SECTION 516: REPORTS TO CONGRESS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 188-191 |
| Public Law 100-4 (sec. 212c) | 249-250 |
| House Debate: January 1987 | 571-572 |
| House Report (99-1004) | 711-712, **793** |
| House Debate: July 1985 | 932, 1034-1035, 1055-1056 |
| House Report (99-189) | 1075, **1111**, 1175 |
| H.R. 8, as reported, July 2, 1985 | 1260-1262 |
| Senate Debate: June 1985 | 1317, 1419 |
| Senate Report (99-50) | **1492**, 1540 |
| S. 1128, as reported, May 14, 1985 | 1640-1641 |
| House Debate: June 1984 | 1724 |

## SECTION 517: GENERAL AUTHORIZATION

Source:

| | |
|---|---|
| Clean Water Act, as amended | 191 |
| Public Law 100-4 (sec. 101h) | 231 |
| Senate Debate: January 1987 | 419, 460 |
| House Debate: January 1987 | 547, 563 |
| House Report (99-1004) | 693, **779-781** |

House Debate: July 1985 . . . . . . . . . . 917, 1013-1014, 1036
House Report (99-189) . . . . . . . . . . **1076**, 1176
H.R. 8, as reported, July 2, 1985 . . . . . . . . . . 1182-1183
Senate Debate: June 1985 . . . . . . . . . . 1305, 1398
Senate Report (99-50) . . . . . . . . . . **1432**, 1541
S. 1128, as reported, May 14, 1985 . . . . . . . . . . 1548
House Debate: June 1984 . . . . . . . . . . 1700, 1720, 1743
House Report (98-827) . . . . . . . . . . 1839, 1915
H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . 1928
House Hearings 1983--Administration Testimony . . . . 2008, 2009, 2012
Senate Report (98-233) . . . . . . . . . . 2088, 2136-2137
S. 431, as reported, September 21, 1983 . . . . . . . . 2140, 2155-2156
Public Law 96-483 (sec. 1g) . . . . . . . . . . 2585
Senate Debate: October 1980 . . . . . . . . . . 2590
House Debate: October 1980 . . . . . . . . . . 2598, 2600, 2601
Senate Debate: June 1980 . . . . . . . . . . 2603, 2618
Senate Report (96-744) . . . . . . . . . . 2622
S. 2725, as reported, May 15, 1980 . . . . . . . . . . 2639
House Report (96-983) . . . . . . . . . . 2643, 2644, 2658
H.R. 6667, as reported May 15, 1980 . . . . . . . . . . 2662, 2665

## SECTION 518: INDIAN TRIBES

Source:
Clean Water Act, as amended . . . . . . . . . . 191-193
Public Law 100-4 (sec. 506) . . . . . . . . . . 298-300
Senate Debate: January 1987 . . . . . . . . . . 385, **393-395**, 446-447, 462, **487**, **496**, **499**
House Debate: January 1987 . . . . . . . . . . **550-552**, 595-596
Senate Debate: October 1986 . . . . . . . . . . **650-651**, 652
House Report (99-1004) . . . . . . . . . . 763-765, **853-855**
House Debate: July 1985 . . . . . . . . . . 895-896, 908, 1032-1033, 1056
Senate Debate: June 1985 . . . . . . . . . . 1392, 1417
Senate Report (99-50) . . . . . . . . . . **1485-1486**, 1508-1509, 1537-1538
S. 1128, as reported, May 14, 1985 . . . . . . . . . . 1628-1630
House Hearings 1983--Administration Testimony . . . . . . 2037-2038

# TITLE VI--STATE WATER POLLUTION CONTROL REVOLVING FUNDS

## SECTION 601: GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 193-194 |
| Public Law 100-4 (sec. 212a) | 244 |
| **Senate Debate: February 1987** | 321, 335 |
| **Senate Debate: January 1987** | 362, **374**,<br>**411-412**, 424, 460 |
| **House Debate: January 1987** | 569 |
| **Senate Debate: October 1986** | **630** |
| **House Report (99-1004)** | 706, **793-801** |
| **House Debate: July 1985** | 925, 1033, 1045 |
| **House Report (99-189)** | **1093**, 1149 |
| **H.R. 8, as reported, July 2, 1985** | 1222 |
| **Senate Debate: June 1985** | 1417 |
| **Senate Report (99-50)** | **1487-1488**, 1541 |
| **S. 1128, as reported, May 14, 1985** | 1631-1632 |
| **Senate Hearings 1985--Administration Testimony** | 1654-1655,<br>1657-1658 |
| **House Debate: June 1984** | 1726, 1750 |
| **House Report (98-827)** | **1853-1854**, 1892 |
| **H.R. 3282, as reported, June 6, 1984** | 1957 |

## SECTION 602: CAPITALIZATION GRANT AGREEMENTS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 194-195 |
| Public Law 100-4 (sec. 212a) | 244-245 |
| **Senate Debate: February 1987** | 335 |
| **Senate Debate: January 1987** | 369, **374-375**,<br>424-425 |
| **House Debate: January 1987** | 558, 569 |
| **Senate Debate: October 1986** | 622, **629-630**,<br>635 |
| **House Report (99-1004)** | 706-707, **793-801** |
| **House Debate: July 1985** | 925, 1033, 1045 |
| **House Report (99-189)** | **1093**, 1150 |
| **H.R. 8, as reported, July 2, 1985** | 1223 |
| **Senate Debate: June 1985** | 1316-1317,<br>1329, 1418 |
| **Senate Report (99-50)** | **1486-1487**,<br>**1488-1489**, 1542-1543 |
| **S. 1128, as reported, May 14, 1985** | 1632-1634 |
| **Senate Hearings 1985--Administration Testimony** | 1661-1662 |

| | |
|---|---|
| House Debate: June 1984 | 1726, 1750 |
| House Report (98-827) | **1854**, 1892-1893 |
| H.R. 3282, as reported, June 6, 1984 | 1958 |

## SECTION 603: WATER POLLUTION CONTROL REVOLVING LOAN FUNDS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 195-196 |
| Public Law 100-4 (sec. 212a) | 245-246 |
| Senate Debate: February 1987 | 335 |
| Senate Debate: January 1987 | **369, 374, 375,** 396, 425, 456, 484, 501 |
| House Debate: January 1987 | 537, 547, 558, 570 |
| Senate Debate: October 1986 | **622**, 624, **629, 630-631**, 635, 654 |
| House Debate: October 1986 | 663, 675 |
| House Report (99-1004) | 707-709, **793-801** |
| House Debate: July 1985 | 890-891, 925-926, 1033-1034, 1044-1045 |
| House Report (99-189) | **1093-1094,** 1150-1151 |
| H.R. 8, as reported, July 2, 1985 | 1224-1227 |
| Senate Debate: June 1985 | 1317, 1325, 1329, **1396**, 1418 |
| Senate Report (99-50) | **1489-1490,** 1543-1544 |
| S. 1128, as reported, May 14, 1985 | 1635-1637 |
| House Debate: June 1984 | 1726, 1750-1751 |
| House Report (98-827) | **1854-1855**, 1893 |
| H.R. 3282, as reported, June 6, 1984 | 1958-1960 |

## SECTION 604: ALLOTMENT OF FUNDS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 196-197 |
| Public Law 100-4 (sec. 212a) | 247 |
| Senate Debate: January 1987 | **375** |
| House Debate: January 1987 | 570 |
| Senate Debate: October 1986 | 631 |
| House Report (99-1004) | 709, **793-801** |
| House Debate: July 1985 | 891, 905, 926, 1033, 1045 |
| House Report (99-189) | 1151-1152 |
| H.R. 8, as reported, July 2, 1985 | 1228-1230 |
| Senate Debate: June 1985 | 1316, 1417 |
| Senate Report (99-50) | **1487**, 1541 |
| S. 1128, as reported, May 14, 1985 | 1631 |

| | |
|---|---|
| House Debate: June 1984 | **1726**, 1750 |
| House Report (98-827) | **1855**, 1894 |
| H.R. 3282, as reported, June 6, 1984 | 1961 |

## SECTION 605: CORRECTIVE ACTION

Source:

| | |
|---|---|
| Clean Water Act, as amended | 197 |
| Public Law 100-4 (sec. 212a) | 247 |
| Senate Debate: January 1987 | 375, 425 |
| House Debate: January 1987 | 570-571 |
| Senate Debate: October 1986 | 631 |
| House Report (99-1004) | 709, **793-801** |
| House Debate: July 1985 | 926 |
| Senate Debate: June 1985 | 1417 |
| Senate Report (99-50) | **1487-1488**,<br>1541-1542 |
| S. 1128, as reported, May 14, 1985 | 1632 |

## SECTION 606: AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN

Source:

| | |
|---|---|
| Clean Water Act, as amended | 197-198 |
| Public Law 100-4 (sec. 212a) | 247-248 |
| Senate Debate: January 1987 | 425-426 |
| House Debate: January 1987 | 571 |
| House Report (99-1004) | 710-711, **793-801** |
| House Debate: July 1985 | 926, 1034, 1045 |
| House Report (99-189) | 1075, **1094**, 1151 |
| H.R. 8, as reported, July 2, 1985 | 1227-1228 |
| Senate Debate: June 1985 | 1317, 1418-1419 |
| Senate Report (99-50) | **1490-1491**,<br>1544-1545 |
| S. 1128, as reported, May 14, 1985 | 1637-1639 |
| House Debate: June 1984 | 1726, 1750 |
| House Report (98-827) | **1855**, 1893 |
| H.R. 3282, as reported, June 6, 1984 | 1960-1961 |

## SECTION 607: AUTHORIZATION OF APPROPRIATIONS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 198 |
| Public Law 100-4 (sec. 212a) | 248-249 |
| Senate Debate: February 1987 | 336 |
| House Debate: February 1987 | 345, 353 |
| Senate Debate: January 1987 | 368, 463, 484,<br>494, 501 |
| House Debate: January 1987 | 558, 566, 571 |

President's Veto of S. 1128 ........ 615
Senate Debate: October 1986 ........ 623, 635, 667
House Report (99-1004) ........ 711, **793-801**
House Debate: July 1985 ........ 878, 926, 1045
House Report (99-189) ........ **1094**, 1151
H.R. 8, as reported, July 2, 1985 ........ 1228
Senate Debate: June 1985 ........ 1316, 1417
Senate Report (99-50) ........ 1430-1431, **1487**, 1541
S. 1128, as reported, May 14, 1985 ........ 1630-1631
House Debate: June 1984 ........ 1700, 1701, 1726, 1750
House Report (98-827) ........ **1855**, 1894
H.R. 3282, as reported, June 6, 1984 ........ 1961

## PROVISIONS WHICH DO NOT AMEND THE CLEAN WATER ACT

### RESEARCH ON EFFECTS OF POLLUTANTS

Source:

Clean Water Act, as amended ........ 201
Public Law 100-4 (sec. 105) ........ 237
  Senate Debate: January 1987 ........ 421, 460
  House Report (99-1004) ........ 699, **785**
  House Debate: July 1985 ........ 900, 907, 1060-1061
  House Debate: June 1984 ........ 1710, 1739, 1767, 1769-1770, 1824

### INNOVATIVE PROCESS (LITTLE FALLS, MINNESOTA)

Source:

Clean Water Act, as amended ........ 201
Public Law 100-4 (sec. 202e) ........ 238
  House Debate: February 1987 ........ 246
  Senate Debate: January 1987 ........ 422
  House Debate: January 1987 ........ 537, 566
  House Report (99-1004) ........ 670
  House Debate: July 1985 ........ 923, 1041
  House Report (99-189) ........ **1085**
  H.R. 8, as reported, July 2, 1985 ........ 1210-1211
  House Debate: June 1984 ........ 1724, 1746
  House Report (98-827) ........ **1847**
  H.R. 3282, as reported, June 6, 1984 ........ 1950

## AVAILABILITY OF CERTAIN FUNDS FOR NON-FEDERAL SHARE

| Source: | |
|---|---|
| Clean Water Act, as amended | 201 |
| Public Law 100-4 (sec. 202f) | 238 |
| Senate Debate: January 1987 | **376**, 422 |
| House Debate: January 1987 | 532, 566 |
| Senate Debate: October 1986 | 631 |
| House Debate: October 1986 | 670 |
| House Report (99-1004) | 700 |
| House Debate: July 1985 | 890, 905, 1041-1042 |

## IMPROVEMENT PROJECTS

| Source: | |
|---|---|
| Clean Water Act, as amended | 201-202 |
| Public Law 100-4 (sec. 213) | 250-251 |
| Senate Debate: February 1987 | 335 |
| Senate Debate: January 1987 | 409, 426-427, 460 |
| House Debate: January 1987 | 572 |
| House Debate: October 1986 | 675, **677** |
| House Report (99-1004) | 712-713, **801-802** |
| House Debate: July 1985 | 903, 908, 935, 938, 948, 1068-1069 |
| House Report (99-189) | **1120** |
| H.R. 8, as reported, July 2, 1985 | 1280-1281 |
| Senate Debate: June 1985 | 1348 |
| House Debate: June 1984 | 1725, 1749-1750, 1771, 1772 |
| House Report (98-827) | **1852-1853** |
| H.R. 3282, as reported, June 6, 1984 | 1955-1957 |

## CHICAGO TUNNEL AND RESERVOIR PROJECT

| Source: | |
|---|---|
| Clean Water Act, as amended | 202 |
| Public Law 100-4 (sec. 214) | 251 |
| House Debate: February 1987 | 344 |
| Senate Debate: January 1987 | **368**, 409, 427, 461 |
| House Debate: January 1987 | 572 |
| Senate Debate: October 1986 | 634 |
| House Report (99-1004) | 713, **802** |
| House Debate: July 1985 | 1031 |
| Senate Debate: June 1985 | **1331-1332**, 1416 |

AD VALOREM TAX DEDICATION

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 202-203
- Public Law 100-4 (sec. 215) . . . . . . . . . . . . . . . . . . . . . . . . 251
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . . 426, 461
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . 572
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . .713, **802-803**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . 1026
  - Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . . 1391, 1411
  - Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . . . . . **1471**
  - S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . . . 1606
  - Senate Hearings 1985--Administration Testimony . . . . . 1688
  - Senate Report (98-233) . . . . . . . . . . . . . . . . . . . . . . **2105**, 2137
  - S. 431, as reported, September 21, 1983 . . . . . . . . . . . .2192-2193

DEADLINES FOR REGULATIONS FOR CERTAIN TOXIC POLLUTANTS

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 203
- Public Law 100-4 (sec. 301f) . . . . . . . . . . . . . . . . . . . . . . . . 252
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . .427, 430, 461
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . 547, 573
  - House Report (99-1004) . . . . . . . . . . . . . . . . . 714-715, **803-805**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 918, 1037
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . . **1077**
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . .1184-1185
  - House Debate: June 1984 . . . . . . . . . . . . . . . . . . . . . . . 1720, 1743
  - House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . . . **1839-1840**
  - H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . . 1930

MODIFICATION FOR NONCONVENTIONAL POLLUTANTS APPLICATION

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 74
- Public Law 100-4 (sec. 302e) . . . . . . . . . . . . . . . . . . . . . . . 254-255

PHOSPHATE FERTILIZER EFFLUENT LIMITATION

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 203
- Public Law 100-4 (sec. 306c) . . . . . . . . . . . . . . . . . . . . . . . . 258-259
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . . . . **370, 373,** 495, **513-514**
  - House Debate: January 1987 . . . . . . . . . . . . . 516-522, **560-561,** 575, **603-611**

| | |
|---|---|
| Senate Debate: October 1986 | 625, 650 |
| House Report (99-1004) | 721 |

## WATER QUALITY IMPROVEMENT STUDY

Source:

| | |
|---|---|
| Clean Water Act, as amended | 204 |
| Public Law 100-4 (sec. 308g) | 262-263 |
| Senate Debate: January 1987 | 432 |
| House Debate: January 1987 | 578 |
| House Report (99-1004) | 725-726, **819** |
| House Debate: July 1985 | 936, 1069 |
| House Report (99-189) | **1121** |
| H.R. 8, as reported, July 2, 1985 | 1283 |
| House Debate: June 1984 | 1733, 1760 |
| House Report (98-827) | **1877** |
| H.R. 3282, as reported, June 6, 1984 | 1994, 1995 |

## PRETREATMENT STANDARDS: INCREASE IN EPA EMPLOYEES

Source:

| | |
|---|---|
| Clean Water Act, as amended | 204 |
| Public Law 100-4 (sec. 309b) | 263 |
| Senate Debate: January 1987 | 432 |
| House Debate: January 1987 | 578 |
| House Report (99-1004) | 726 |
| House Debate: July 1985 | 927, 1048 |
| H.R. 8, as reported, July 2, 1985 | 1234 |
| House Debate: June 1984 | 1727, 1753 |
| House Report (98-827) | **1861-1862** |
| H.R. 3282, as reported, June 6, 1984 | 1966 |

## ADMINISTRATIVE PENALTIES: REPORTS ON ENFORCEMENT MECHANISMS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 204 |
| Public Law 100-4 (sec. 314b) | 271 |
| Senate Debate: January 1987 | 436 |
| House Debate: January 1987 | 582 |
| House Report (99-1004) | 734 |

## NATIONAL ESTUARY PROGRAM: PURPOSES AND POLICIES

Source:

| | |
|---|---|
| Clean Water Act, as amended | 204-205 |
| Public Law 100-4 (sec. 317a) | 283 |

- Senate Debate: January 1987 .................... 439
- House Debate: January 1987 .................... 587-588
- House Report (99-1004) .................... 746-747, **834-839**
- House Debate: July 1985 .................... 938, 941, 1059

UNCONSOLIDATED QUATERNARY AQUIFER

Source:
- Clean Water Act, as amended .................... 205
- Public Law 100-4 (sec. 318) .................... 288
  - Senate Debate: January 1987 .................... 441, 461
  - House Debate: January 1987 .................... 589
  - House Report (99-1004) .................... 751, **839**
  - House Debate: July 1985 .................... 902, 908, 1063

ANTI-BACKSLIDING: STUDY

Source:
- Clean Water Act, as amended .................... 205
- Public Law 100-4 (sec. 404c) .................... 291
  - Senate Debate: January 1987 .................... 443
  - House Debate: January 1987 .................... 591
  - House Report (99-1004) .................... 755, **842-846**

REMOVAL CREDITS

Source:
- Clean Water Act, as amended .................... 205-206
- Public Law 100-4 (sec. 406e) .................... 295-296
  - Senate Debate: February 1987 .................... 338
  - Senate Debate: January 1987 .................... 445
  - House Debate: January 1987 .................... 593
  - Senate Debate: October 1986 .................... **621**
  - House Report (99-1004) .................... 760, **847-850**

LOG TRANSFER FACILITIES

Source:
- Clean Water Act, as amended .................... 206-207
- Public Law 100-4 (sec. 407) .................... 296-297
  - Senate Debate: January 1987 .................... 445, 462
  - House Debate: January 1987 .................... 593-594
  - Senate Debate: October 1986 .................... **622**
  - House Report (99-1004) .................... 760-761, **850-851**
  - House Debate: July 1985 .................... 894-895, 907, 1011-1012, 1030, 1054
  - House Report (99-189) .................... **1132-1133**
  - Senate Debate: June 1985 .................... **1333-1339**, 1397, 1414-1415

## DEFINITION OF POINT SOURCE

| Source: | |
|---|---|
| Clean Water Act, as amended | 207 |
| Public Law 100-4 (sec. 507) | 300 |
| Senate Debate: January 1987 | 447, 462 |
| House Debate: January 1987 | 596 |
| House Report (99-1004) | 765, **855-856** |
| House Debate: July 1985 | 896, 907, **959-960**, 1056 |
| House Debate: June 1984 | **1796** |

## SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

| Source: | |
|---|---|
| Clean Water Act, as amended | 207 |
| Public Law 100-4 (sec. 508) | 301 |
| House Debate: February 1987 | 353 |
| Senate Debate: January 1987 | 402, 447, 462, 504 |
| House Debate: January 1987 | 596 |
| Senate Debate: October 1986 | 637, 653 |
| House Debate: October 1986 | 659-660 |
| House Report (99-1004) | 765-766, **856** |

## OCEAN DISCHARGE RESEARCH PROJECTS

| Source: | |
|---|---|
| Clean Water Act, as amended | 207-209 |
| Public Law 100-4 (sec. 509) | 301-302 |
| Senate Debate: January 1987 | 447-448, 462 |
| House Debate: January 1987 | 596-597 |
| House Report (99-1004) | 766-767, **856-857** |
| House Debate: July 1985 | 901, 907, 1062 |
| House Debate: June 1984 | 1769 |
| Senate Report (98-233) | **2092-2093** |

## SAN DIEGO, CALIFORNIA

| Source: | |
|---|---|
| Clean Water Act, as amended | 209-210 |
| Public Law 100-4 (sec. 510) | 302-304 |
| Senate Debate: February 1987 | 335 |
| Senate Debate: January 1987 | 409, 411, 451-452, 462 |
| House Debate: January 1987 | 597 |
| House Debate: October 1986 | **679** |

House Report (99-1004) . . . . . . . . . . . . . . . . . . 767-768, **857-858**
House Debate: July 1985 . . . . . . . . . . . . . . . . . 932-933, **946-947**, 1063-1064
House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . **1112-1114**
H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . .1263-1267
Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . . **1345-1346**
House Debate: June 1984 . . . . . . . . . . . . . . . . . 1731-1732, 1758, 1810, 1827-1828
House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . . **1872-1873**
H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . .1986-1989

## LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY

Source:
Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 210-213
Public Law 100-4 (sec. 511) . . . . . . . . . . . . . . . . . . . . . . . . 304-306
Senate Debate: January 1987 . . . . . . . . . . . . . . **397**, 448-449, 462
House Debate: January 1987 . . . . . . . . . . . . . . . . . . . . . 597-598
Senate Debate: October 1986 . . . . . . . . . . . . . . . . . . . . **654-655**
House Report (99-1004) . . . . . . . . . . . . . . . . . . . 768-769, **858-859**
House Debate: July 1985 . . . . . . . . . . . . . . . 933-934, 1026-1027, 1065-1066
House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . .1115-1118
H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . .1269-1276
Senate Debate: June 1985 . . . . . . . . . . . . . . . .1314, 1329-1330 1393, 1411-1412
Senate Report (99-50) . . . . . . . . . . . . . . . . . . . . . . . . **1471-1473**
S. 1128, as reported, May 14, 1985 . . . . . . . . . . . . . . . .1606-1612
House Debate: June 1984 . . . . . . . . . . . . . . . . 1716, 1717-1718, 1732-1733, 1759, **1776-1788**
House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . . **1874-1875**
H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . .1990-1991

## OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK

Source:
Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 213
Public Law 100-4 (sec. 512) . . . . . . . . . . . . . . . . . . . . . . . . 306-307
Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . . . 335
Senate Debate: January 1987 . . . . . . . . . . . . . . . . . .409, 452, 462
House Debate: January 1987 . . . . . . . . . . . . . . . . . . . . . 599
House Debate: October 1986 . . . . . . . . . . . . . . . . . . . . . 688
House Report (99-1004) . . . . . . . . . . . . . . . . . . . . .771, **859-860**
House Debate: July 1985 . . . . . . . . . . . . . . . . .934-935, 1067-1068
House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . **1118**
H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . .1276-1277

House Debate: June 1984 . . . . . . . . . . . . . . . . . . . . 1733, 1760, 1822
House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . . **1876**
H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . . 1992

## BOSTON HARBOR AND ADJACENT WATERS

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . 213-214
- Public Law 100-4 (sec. 513) . . . . . . . . . . . . . . . . . . . . . 307
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . 327-328, 335
  - Senate Debate: January 1987 . . . . . . . . . . . . . . 402, 409, 452, 462, 469, 493, 504
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . . 555, 599
  - Senate Debate: October 1986 . . . . . . . . . . . . . . . . . . 637, 651-652
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . 771-772, **860**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 935, 1068
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . . **1119**
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . 1278-1279
  - House Debate: June 1984 . . . . . . . . . . . . . . . . 1733, 1760, 1821
  - House Report (98-827) . . . . . . . . . . . . . . . . . . . . . . . . 1876
  - H.R. 3282, as reported, June 6, 1984 . . . . . . . . . . . . . 1991-1992

## WASTEWATER RECLAMATION DEMONSTRATION

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . 214
- Public Law 100-4 (sec. 514) . . . . . . . . . . . . . . . . . . . . . 307
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . 335
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . 409, 452, 462
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . 599
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . 772, **860-861**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 935, 1068
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . . **1119**
  - H.R. 8, as reported, July 2, 1985 . . . . . . . . . . . . . . . . 1279
  - Senate Debate: June 1985 . . . . . . . . . . . . . . . . . . . . . 1347
  - House Debate: June 1984 . . . . . . . . . . . . . . . . 1735, 1769, 1810

## DES MOINES, IOWA

Source:
- Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . 214
- Public Law 100-4 (sec. 515) . . . . . . . . . . . . . . . . . . . . . 307
  - Senate Debate: February 1987 . . . . . . . . . . . . . . . . . . 335
  - Senate Debate: January 1987 . . . . . . . . . . . . . . . . . 409, 452, 462
  - House Debate: January 1987 . . . . . . . . . . . . . . . . . . . 599
  - House Report (99-1004) . . . . . . . . . . . . . . . . . . . . . 772, **861**
  - House Debate: July 1985 . . . . . . . . . . . . . . . . . . . . . . . 935, 1068
  - House Report (99-189) . . . . . . . . . . . . . . . . . . . . . . . . **1119**

- H.R. 8, as reported, July 2, 1985 . . . 1277-1278
- House Debate: June 1984 . . . 1734-1735, 1762, 1769, 1829

## STUDY OF DE MINIMIS DISCHARGES

Source:

- Clean Water Act, as amended . . . 214
- Public Law 100-4 (sec. 516) . . . 308
  - Senate Debate: January 1987 . . . 409, 449, 452, 462
  - House Debate: January 1987 . . . 599
  - House Report (99-1004) . . . 772-773, **861**
  - House Debate: July 1985 . . . 935-936, 1069
  - House Report (99-189) . . . **1120**
  - H.R. 8, as reported, July 2, 1985 . . . 1281
  - House Debate: June 1984 . . . 1733, 1760
  - House Report (98-827) . . . **1877**
  - H.R. 3282, as reported, June 6, 1984 . . . 1993

## STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES

Source:

- Clean Water Act, as amended . . . 214-215
- Public Law 100-4 (sec. 517) . . . 308
  - Senate Debate: January 1987 . . . 449-450, 462
  - House Debate: January 1987 . . . 599
  - House Report (99-1004) . . . 773, **861-862**
  - House Debate: July 1985 . . . 936, 1069
  - House Report (99-189) . . . **1120-1121**
  - H.R. 8, as reported, July 2, 1985 . . . 1282
  - House Debate: June 1984 . . . 1733
  - House Report (98-827) . . . **1877**
  - H.R. 3282, as reported, June 6, 1984 . . . 1993-1994

## STUDY OF TESTING PROCEDURES

Source:

- Clean Water Act, as amended . . . 215
- Public Law 100-4 (sec. 518) . . . 308-309
  - Senate Debate: January 1987 . . . 450, 462
  - House Debate: January 1987 . . . 599-600
  - House Report (99-1004) . . . 773, **862**
  - House Debate: July 1985 . . . 936, 1069
  - House Report (99-189) . . . **1121-1122**
  - H.R. 8, as reported, July 2, 1985 . . . 1283-1284
  - House Debate: June 1984 . . . 1733-1734, 1760-1761

| | |
|---|---|
| House Report (98-827) | **1877-1878** |
| H.R. 3282, as reported, June 6, 1984 | 1995-1996 |

## STUDY OF PRETREATMENT OF TOXIC POLLUTANTS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 215-216 |
| Public Law 100-4 (sec. 519) | 309 |
| Senate Debate: January 1987 | 450, 462 |
| House Debate: January 1987 | 600 |
| House Debate: October 1986 | **664-665** |
| House Report (99-1004) | 773-774, **862-863** |
| House Debate: July 1985 | 936, 1069-1070 |
| House Report (99-189) | **1122-1123** |
| H.R. 8, as reported, July 2, 1985 | 1284-1286 |
| House Debate: June 1984 | 1734, 1761 |
| House Report (98-827) | **1878-1879** |
| H.R. 3282, as reported, June 6, 1984 | 1996-1997 |

## STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 216 |
| Public Law 100-4 (sec. 520) | 309-310 |
| Senate Debate: January 1987 | 450, 462 |
| House Debate: January 1987 | 532, 600 |
| House Debate: October 1986 | 670-671 |
| House Report (99-1004) | 770, **864** |
| House Debate: July 1985 | 903-904, 908, 1070 |
| House Debate: June 1984 | **1805-1808** |

## GREAT LAKES CONSUMPTIVE USE STUDY

Source:

| | |
|---|---|
| Clean Water Act, as amended | 216-217 |
| Public Law 100-4 (sec. 521) | 310 |
| Senate Debate: January 1987 | 450-451, 462 |
| House Debate: January 1987 | 600 |
| House Report (99-1004) | 775, **864** |
| House Debate: July 1985 | 904, 908, 1070 |
| House Debate: June 1984 | 1738, 1765-1766, 1769, 1826 |

## SULFIDE CORROSION STUDY

Source:

| | |
|---|---|
| Clean Water Act, as amended | 217 |

- Public Law 100-4 (sec. 522) .......................... 310-311
  - Senate Debate: January 1987 .................... 451, 462
  - House Debate: January 1987 .................... 601
  - House Report (99-1004) .......................775-776, **864**
  - House Debate: July 1985 .....................936, 937-938, 1070
  - House Report (99-189) .......................... **1123**
  - H.R. 8, as reported, July 2, 1985 ............... 1286
  - Senate Debate: June 1985 ....................... 1347
  - House Debate: June 1984 ................ 1734, 1761-1762, 1770-1771
  - House Report (98-827) ........................**1879-1880**
  - H.R. 3282, as reported, June 6, 1984 ..............1997-1998

## STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS

Source:

- Clean Water Act, as amended .......................... 217-218
- Public Law 100-4 (sec. 523) .......................... 311
  - Senate Debate: January 1987 .................... 451, 462
  - House Debate: January 1987 .................... 601
  - House Report (99-1004) ........................ 776, **864**
  - House Debate: July 1985 .................. 904, 908, 937, 1008-1009, 1071
  - House Report (99-189) .......................... **1124**
  - H.R. 8, as reported, July 2, 1985 ................ 1287
  - Senate Debate: June 1985 ....................... 1348

## DAM WATER QUALITY STUDY

Source:

- Clean Water Act, as amended .......................... 218
- Public Law 100-4 (sec. 524) .......................... 311
  - Senate Debate: January 1987 .................... 451, 462
  - House Debate: January 1987 .................... 601
  - House Report (99-1004) ........................ 776, **864**
  - House Debate: July 1985 ................... 931-932, 1055
  - House Report (99-189) .......................**1111**, 1175
  - H.R. 8, as reported, July 2, 1985 ................ 1261
  - House Debate: June 1984 ...................... 1721, 1743
  - House Report (98-827) .......................**1841**, 1915
  - H.R. 3282, as reported, June 6, 1984 ............. 1933

## STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO

Source:

- Clean Water Act, as amended .......................... 218

| | |
|---|---|
| Public Law 100-4 (sec. 525) | 311 |
|     Senate Debate: January 1987 | **382-383**, 451, 462 |
|     House Debate: January 1987 | 601 |
|     House Report (99-1004) | 776, **865** |
|     House Debate: July 1985 | 937, 1030, 1071 |
|     House Report (99-189) | **1125** |
|     H.R. 8, as reported, July 2, 1985 | 1288-1289 |
|     Senate Debate: June 1985 | 1351-1352, 1414 |
|     Senate Report (99-50) | **1475-1476** |
|     S. 1128, as reported, May 14, 1985 | 1621 |
|     Senate Hearings 1985--Administration Testimony | 1690 |

## REVISED WATER QUALITY STANDARDS

Source:

| | |
|---|---|
| Clean Water Act, as amended | 200 |
| Public Law 97-117 (sec. 24) | 2300-2301 |
|     House Debate: December 1981 | 2309 |
|     House Report (97-408) | 2343, **2358** |
|     Senate Debate: October 1981 | 2459, 2466 |
|     Senate Report (97-204) | **2483-2484** |
|     S. 1716, as reported, October 7, 1981 | 2502-2503 |

## NEEDS SURVEY

Source:

| | |
|---|---|
| Clean Water Act, as amended | 200 |
| Public Law 97-117 (sec. 25) | 2301 |
|     House Debate: December 1981 | 2309, 2314 |
|     House Report (97-408) | 2343-2344, **2355** |
|     House Debate: October 1981 | 2373, 2391 |
|     House Report (97-270) | **2422** |
|     H.R. 4503, as reported, October 9, 1981 | 2453 |
|     Senate Debate: October 1981 | 2456, 2459, 2466-2467 |
|     Senate Report (97-204) | **2486** |
|     S. 1716, as reported, October 7, 1981 | 2504-2505 |

## JUDICIAL NOTICE

Source:

| | |
|---|---|
| Clean Water Act, as amended | 200 |
| Public Law 97-117 (sec. 26) | 2301 |
|     House Debate: December 1981 | 2309, 2313 |
|     House Report (97-408) | 2343-2344, **2354-2355** |
|     House Debate: October 1981 | 2373, 2379-2380, 2391 |
|     House Report (97-270) | **2422** |

H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . . 2453
Senate Debate: October 1981 . . . . . . . . . . . . . . . . . . . . 2466
S. 1716, as reported, October 7, 1981 . . . . . . . . . . . . . .2503-2504

BATH TOWNSHIP

Source:
  Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . . 200-201
  Public Law 97-117 (sec. 27) . . . . . . . . . . . . . . . . . . . . . . . . . 2301
    House Debate: December 1981 . . . . . . . . . . . . . . . . . . 2309, 2313
    House Report (97-408) . . . . . . . . . . . . . . . . . . . . . . . .2344, **2356**
    House Debate: October 1981 . . . . . . . . . . . . . . 2373, 2383-2384, 2391
    House Report (97-270) . . . . . . . . . . . . . . . . . . . . . . . . **2423**
    H.R. 4503, as reported, October 9, 1981 . . . . . . . . . . . .2453-2454

INDUSTRIAL COST RECOVERY/
INDUSTRIAL COST EXCLUSION

Source:
  Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . 199
  Public Law 96-483 (sec. 2) . . . . . . . . . . . . . . . . . . . . . . . . . 2586
    Senate Debate: October 1980 . . . . . . . . . . . . . . .2590, 2592-2593
    House Debate: October 1980 . . . . . . . . . . . . . . . . . . .2594-2595, 2596-2597, 2598, 2600, 2601
    Senate Debate: June 1980 . . . . . . . . . . . . . . . . . . . . 2619
    Senate Report (96-744) . . . . . . . . . . . . . . . . . . . . . . . . **2626-2629**
    S. 2725, as reported, May 15, 1980 . . . . . . . . . . . . . . 2640
    House Report (96-983) . . . . . . . . . . . . . . . . . . **2644-2646**, 2659
    H.R. 6667, as reported, May 15, 1980 . . . . . . . . . . . 2663, 2665
  Public Law 96-148 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 2669
    House Debate: December 1979 . . . . . . . . . . . . . **2670-2671**, 2672
    Senate Debate: November 1979 . . . . . . . . . . . . . . . . . . **2673**
    House Debate: June 1979 . . . . . . . . . . . . . . . . . . . . . . .2674-2678
    House Report (96-305) . . . . . . . . . . . . . . . . . . . . . . . .2679-2682, 2683-2384
    H.R. 4023, as reported, June 25, 1979 . . . . . . . . . . . . 2686
    Senate Debate: June 1979 . . . . . . . . . . . . . . . . . . . . . .2687-2693
    Senate Report (96-200) . . . . . . . . . . . . . . . . . . . . . . . . .2694-2698
    S. 901, as reported, June 5, 1979 . . . . . . . . . . . . . . . . 2703, 2704

REPORT TO CONGRESS:
INDUSTRIAL COST EXCLUSION

Source:
  Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . . 199
  Public Law 96-483 (sec. 4) . . . . . . . . . . . . . . . . . . . . . . . . . 2586
    Senate Debate: October 1980 . . . . . . . . . . . . . . . . . . . 2590, 2593
    House Debate: October 1980 . . . . . . . . . . . . . . . . . . . . 2597, 2601

ALLOTMENT PERIOD

Source:
  Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 199
  Public Law 96-483 (sec. 7) . . . . . . . . . . . . . . . . . . . . . . . 2587
    Senate Debate: October 1980 . . . . . . . . . . . . . . . . . . . 2591
    House Debate: October 1980 . . . . . . . . . . . . . . . . . . 2595, 2598, 2601-2602
    Senate Debate: June 1980 . . . . . . . . . . . . . . . . . . . . 2603-2604, 2615, 2618
    Senate Report (96-744) . . . . . . . . . . . . . . . . . . . . . . **2622-2623**
    S. 2725, as reported, May 15, 1980 . . . . . . . . . . . . . . . 2639

ABANDONED MINE DEMONSTRATION PROGRAM

Source:
  Clean Water Act, as amended . . . . . . . . . . . . . . . . . . . . . . 199-200
  Public Law 96-483 (sec. 12) . . . . . . . . . . . . . . . . . . . . . . 2588-2589
    Senate Debate: October 1980 . . . . . . . . . . . . . . . . . . . 2591-2592
    House Debate: October 1980 . . . . . . . . . . . . . . . **2595-2596**, 2602

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